

LOCAL GOVERNMENT AMENDMENT BILL (NO. 6)

EXPLANATORY NOTE

General Policy Statement

The principal purpose of this Bill is to make better provision in relation to infrastructure in the Auckland Region. The Bill contains provisions—

- To dissolve the Auckland Regional Services Trust, on 1 October 1998, and establish, on that date, a new entity called Infrastructure Auckland;
- To confer on Infrastructure Auckland the function of contributing funds, by way of grants, in respect of projects or parts of projects undertaken in the Auckland Region for the purpose of providing,—
 - (a) Land transport; or
 - (b) Any passenger service; or
 - (c) Any passenger transport operation; or
 - (d) Stormwater infrastructure,—where those projects or parts of projects generate benefits to the community generally over and above any benefits that accrue to any identifiable person or groups of persons:
- To require Infrastructure Auckland to prepare and adopt, at least once in every 3 years, a 10-year funding plan;
- To authorise Infrastructure Auckland to make such grants from its income and, if necessary, from its capital;
- To enable not only local authorities but also other persons to make applications to Infrastructure Auckland for grants in respect of such projects;
- To provide that the members of Infrastructure Auckland will, subject to certain exceptions in relation to the transitional period, be appointed by a newly established Electoral College;
- To provide that, initially, the members of the Auckland Regional Services Trust will all be members of Infrastructure Auckland and initially the chairperson of the Auckland Regional Services Trust will become, for a period beginning with the establishment of Infrastructure Auckland and ending with 31 December 1999, the chairperson of Infrastructure Auckland;
- To vest in Auckland territorial authorities all the shares held by the Auckland Regional Services Trust in Watercare Services Limited (the division of the shares

between those territorial authorities being based on the retail water connections in the districts of each of those territorial authorities):

- To require the territorial authorities to retain their shares in Watercare Services Limited:
- To continue in force most of the provisions that at present govern the management of Watercare Services Limited:
- To dissolve, on 1 August 1998, the Auckland Community Trust:
- To require the Auckland Regional Council to prepare and adopt a regional growth strategy for its region.
- To cancel the triennial general election of members of the Auckland Regional Services Trust that would otherwise be held on 10 October 1998.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement of the Bill. A number of the provisions of the Bill (such as *clause 2* which cancels the 1998 triennial general election of members of the Auckland Regional Services Trust) come into force on the date on which the bill receives the Royal assent. Other provisions come into force on later dates. For example, the provisions dissolving the Auckland Community Trust come into force on 1 August 1998 and the provisions dissolving the Auckland Regional Services Trust come into force on 1 October 1998.

Clause 2 cancels the 1998 triennial general election of members of the Auckland Regional Services Trust by providing that no election of members of the Auckland Regional Services Trust may be held in the period commencing with the passing of the Bill and ending with the close of 10 October 1998.

Dissolution of Auckland Community Trust

Clause 3: Subclause (1) provides that the Auckland Community Trust established under section 707ZW of the Local Government Act 1974 is dissolved on 1 August 1998.

Subclause (2) provides that, on 1 August 1998, all assets and liabilities of the Auckland Community Trust become assets and liabilities of the Auckland Regional Services Trust.

Subclauses (3) and (4) provide that all of the property of the Auckland Community Trust vests in the Auckland Regional Services Trust free of the trust imposed by section 707ZZA of the Local Government Act 1974. That section provides that all property vested in, or belonging to, the Auckland Community Trust is to be held in trust to be applied for purposes beneficial to the community principally in the Auckland region, including charitable, cultural, philanthropic, recreational, heritage, and other purposes.

Clause 4: Subclause (1) provides that, as soon as reasonably practicable after the close of 31 July 1998, the Auckland Regional Services Trust must cause to be prepared the final accounts of the Auckland Community Trust as at the close of 31 July 1998.

Subclause (2) provides that a copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be sent by the Auckland Regional Services Trust to the Minister of Local Government.

Subclause (3) provides that a copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be presented to the House of Representatives by the Minister of Local Government as soon as practicable after their receipt by that Minister.

Clause 5, which comes into force on 1 October 1998, provides that for the purposes of the Inland Revenue Acts—

- (a) The Auckland Community Trust and the Auckland Regional Services Trust are, in relation to all the assets and liabilities that, by this Act, become assets and liabilities of the Auckland Regional Services Trust, deemed to be the same person; and
- (b) All transactions entered into by, and all acts of, the Auckland Community Trust before the commencement of this clause, in relation to all assets and liabilities that, by this Act, become assets and liabilities of the Auckland Regional Services Trust, are to be treated as having been entered into or performed by the Auckland Regional Services Trust on the date on which they were entered into or performed by the Auckland Community Trust.

Clause 6, which comes into force on 1 August 1998, effects the consequential repeal of certain enactments relating to the Auckland Community Trust.

Clause 7, which comes into force on the passing of the Bill, inserts new *sections 37SE to 37SG* into the principal Act. The 3 new sections require the Auckland Regional Council to prepare and adopt a regional growth strategy for its region. The objective of the strategy for the Auckland region will be to ensure growth is accommodated in a way that meets the best interests of the inhabitants of the Auckland Region.

The Auckland Regional Council is to be required, by the new *section 37SG*, to establish a regional growth strategy forum for its region. The forum will have the function of advising on and approving the regional growth strategy prepared under the new *section 37SE* and any amendment to that strategy before any such strategy or amendment is adopted by the Auckland Regional Council.

The new *section 37SH* provides, in *subsection (1)*, that the preparation and adoption of the regional growth strategy, or any amendment to it, must be carried out by the Auckland Regional Council in accordance with the special consultative procedure.

Subsection (2) provides that the Auckland Regional Council may require from any territorial authority within its region such information as the Auckland Regional Council considers it requires in order to properly perform its functions under the principal Act in relation to that strategy; and the territorial authority must supply promptly the information required.

Clause 8 inserts into the principal Act a new Part XLIVC relating to Infrastructure Auckland.

The new *section 707ZZH* provides that the new Part (other than *sections 707ZZQ to 707ZZX*) comes into force on 1 October 1998. *Sections 707ZZQ to 707ZZX* (which relate to the new Electoral College and the Infrastructure Auckland deed) come into force on the date on which this Bill receives the Royal assent.

The new *section 707ZZI* defines terms used in the new Part.

The new *section 707ZZJ* establishes a body corporate to be called Infrastructure Auckland.

The new *section 707ZZK* sets out the principal function of Infrastructure Auckland.

Subsection (1) provides that the principal function of Infrastructure Auckland is to contribute funds, by way of grants, in respect of projects or parts of projects undertaken in the Auckland region for the purpose of providing—

- (a) Land transport; or
- (b) Any passenger service; or
- (c) Any passenger transport operation; or
- (d) Stormwater infrastructure,—

where the projects or parts of projects generate benefits to the community generally over and above any benefits that accrue to any identifiable persons or groups of persons.

Subsection (2) provides that Infrastructure Auckland must—

- (a) At least once every 3 years, prepare and adopt, in accordance with *section 707ZZY*, a 10-year funding plan;
- (b) Evaluate, according to criteria specified in the Infrastructure Auckland deed, the projects referred to in *subsection (1)*;
- (c) Determine, according to criteria specified in the Infrastructure Auckland deed, the components of the projects referred to in *subsection (1)*.

Subsection (3) provides that both capital of Infrastructure Auckland and income of Infrastructure Auckland may be distributed by way of grants under *subsection (1)*; but Infrastructure Auckland must, to the extent that income is available from time to time for the purpose, make such grants out of its income before making such grants out of its capital.

Subsection (4) provides that, in *subsection (3)*, “income”—

- (a) Means—
 - (i) Revenue received by Infrastructure Auckland; and
 - (ii) Any cash that Infrastructure Auckland has, either in hand or by way of cash investments; but
- (b) Does not include any shares in Ports of Auckland Limited or Northern Disposal Systems Limited or America’s Cup Village Limited or any money that it receives from the sale of any shares in any of those companies.

Subsection (5) provides that, notwithstanding the provisions of sections 594R (2) and 594Zs of the principal Act, Infrastructure Auckland is not entitled to appoint as a director of any local authority trading enterprise or company owned or controlled by it—

- (a) Any elected member or any employee of any local authority wholly or partly within the Auckland Region; or
- (b) Any member or employee of Infrastructure Auckland.

Under *clause 5 (2) of Schedule 17B* no person may be employed by Infrastructure Auckland while that person is a member of Infrastructure Auckland or a member or employee of any local authority.

Subsection (6) provides that Infrastructure Auckland must, in carrying out its functions, act in the best interests of the inhabitants of the Auckland Region.

The new *section 707ZZL* provides that any local authority which, or other person who, intends to undertake within the Auckland region a project in respect of which Infrastructure Auckland may make a grant in the exercise of its functions under *section 707ZZK (1)* may apply to Infrastructure Auckland for such a grant.

Subsection (2) provides that any grant made by Infrastructure Auckland under *section 707ZZK (1)* may be made subject to such terms and conditions (not inconsistent with the Local Government Act 1974) as Infrastructure Auckland thinks fit.

Subsection (3) provides that Infrastructure Auckland must, where it decides to make a grant to a person or body that is not a local authority,—

- (a) Designate a relevant local authority or group of local authorities to be responsible for seeing that the grant is applied for the purpose for which the grant is made; and
- (b) Pay to the local authority or local authorities a fair and reasonable sum of money to cover the costs of seeing that the grant is applied for the purpose for which the grant is made.

Subsection (4) provides that Infrastructure Auckland may not be the contract manager of any project in respect of which it makes a grant under *section 707ZZK (1)*.

The new *section 707ZZM* specifies special obligations of Infrastructure Auckland. *Subsection (1)* provides that Infrastructure Auckland—

- (a) Must adopt the special consultative procedure in relation to any proposal of Infrastructure Auckland to sell or otherwise dispose of the shares (and any shares owned in future) in Ports of Auckland Limited, in Northern Disposal Systems Limited, or in America's Cup Village Limited;
- (b) Must manage its assets in accordance with sound business practice;
- (c) Must avoid any imprudent increase in the level of its liabilities.

Subsection (2) provides that Infrastructure Auckland must not exercise the option of carrying out its work or functions by using staff employed by it, unless it is satisfied that the advantages of that option clearly outweigh those of any other option.

Subsection (3) provides that, subject to *subsection (4)*, Infrastructure Auckland must avoid acquiring additional assets.

Subsection (4) provides that nothing in *subsection (3)* prevents Infrastructure Auckland from acquiring property in any case where—

- (a) The advantages of acquiring the property, by purchase or by lease or otherwise howsoever, clearly outweigh those of any other option; or
- (b) The property is, in the opinion of Infrastructure Auckland, required, in accordance with sound business practice, for the carrying-out, from day to day, of its obligations in relation to its work and functions.

The new *section 707ZZN* relates to the membership of Infrastructure Auckland.

Subsection (1) provides that Infrastructure Auckland consists of such number of members, not exceeding 7 in number, as are appointed from time to time by the Electoral College in accordance with the Infrastructure Auckland deed.

Subsection (2) provides that no person who is a member or employee of a local authority may hold office as a member of Infrastructure Auckland.

Subsection (3) provides, for the avoidance of doubt, that no person is, in acting as a member of Infrastructure Auckland, to be regarded as, or as having the duties of, a trustee under the Trustee Act 1956.

Subsection (4) provides that *subsection (1)* is subject to the transitional provisions set out in *sections 707ZZU to 707ZZZ*. Those sections provide for the membership of Infrastructure Auckland for 3 transitional periods, the last of which ends with 30 June 2001. In the first of those transitional periods Infrastructure Auckland will comprise not 7 members, but 9. Those 9 members will include all of those persons who are, on 30 September 1998, members of the Auckland Regional Services Trust. The person, who on 30 September 1998, is the chairperson of the Auckland Regional Services Trust will become the first chairperson of Infrastructure Auckland and will continue in that office until the close of 31 December 1999.

The new *section 707ZZO* (which is based on *section 707ZK* of the principal Act) provides that Infrastructure Auckland is to be a local authority for certain purposes.

The new *section 707ZZOA* provides that, in a manner similar to that of a local authority trading enterprise, Infrastructure Auckland is to deliver to the Electoral College each year a statement of corporate intent.

The new *section 707ZZP* (which is based on *section 707UA* of the principal Act and which relates to the transfer of assets in transport-related enterprises) provides that the transfer by Infrastructure Auckland of any securities, interests, or undertakings to which Part XXXIVB of the principal Act applies is, and is deemed always to have been, subject to the provisions of that Part.

The new *section 707zzQ* establishes an Electoral College.

The new *section 707zzR* provides, in *subsection (1)*, that the functions of the Electoral College are—

- (a) To appoint, in accordance with the Local Government Act 1974 and the Infrastructure Auckland deed, members of Infrastructure Auckland;
- (b) To appoint, in accordance with the Local Government Act 1974 and the Infrastructure Auckland deed, the chairperson of Infrastructure Auckland;
- (c) To discharge, in accordance with the Local Government Act 1974 and the Infrastructure Auckland deed the Electoral College's duties in relation to Infrastructure Auckland's statement of corporate intent;
- (d) To monitor the performance of Infrastructure Auckland;
- (e) To negotiate with Infrastructure Auckland from time to time amendments to the Infrastructure Auckland deed.
- (f) To carry out such other functions as are conferred on it by the Local Government Act 1974 or any other Act.

Subsection (2) provides that, subject to *subsection (1)*, the Electoral College has no power to give directions to, or to otherwise exercise control over, Infrastructure Auckland or any part of its business.

Subsection (3) provides that the local authorities that appoint the members of the Electoral College must bear jointly the costs of the operation of the Electoral College, and the proportion of those costs that is to be borne by each local authority is to be the same as the proportion of the total votes that the member appointed by the local authority is entitled to exercise at meetings of the Electoral College.

Subsection (4) provides that the provisions of the Local Government Act 1974 and the Local Government Official Information and Meetings Act 1987 relating to the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, apply in respect of meetings of the Electoral College.

The new *section 707zzs* provides that the Electoral College must, in selecting persons for appointment as members of Infrastructure Auckland, use an objective process.

Subsection (2) provides that that process must involve—

- (a) The preparation and publication of a job description; and
- (b) An advertised recruitment process.

Subsection (3) provides that the criteria for appointment are to be set out in the Infrastructure Auckland deed and must require that those appointed are appointed for their knowledge and experience of 1 or more of the following matters, namely, commerce, economics, law, accountancy, infrastructure, transport, or capital intensive industries.

The new *section 707zzr* relates to the membership of the Electoral College.

Subsection (1) provides that the Electoral College is to have 8 members.

Subsection (2) provides that each territorial authority wholly or partly within the Auckland region is to appoint 1 member.

Subsection (3) provides that the Auckland Regional Council is to appoint 1 member.

Subsection (4) provides that each member of the Electoral College is to hold office at the pleasure of the local authority by which that member is appointed.

Subsection (5) provides that the number of votes that each member is entitled to exercise at each meeting of the Electoral College is as follows:

| Member | Votes |
|----------------------------------|-------|
| Manakau member | 3 |
| Auckland City Council member | 3 |
| Waitakere City Council member | 2 |
| North Shore City Council member | 2 |
| Papakura District Council member | 1 |
| Rodney District Council member | 1 |
| Franklin District Council member | 1 |
| Auckland Regional Council member | 1 |
| Total | 14 |

Subsection (6) provides that where a member of the Electoral College is entitled, under *subsection (5)*, to exercise 2 or 3 votes, that member must, unless he or she abstains from voting on any resolution at a meeting of the Electoral College, cast all the votes to which he or she is so entitled for or against that resolution and may not divide his or her votes or cast a lesser number of votes than the number of votes to which that member is entitled.

Subsection (7) provides that the powers of the Electoral College are not affected by any vacancy in its membership.

The new *section 707zzv* requires the Electoral College to appoint one of its members to be the chairperson of the Electoral College.

The new *section 707zzv* (which is based on clause 6 of Schedule 17A of the principal Act) relates to meetings of the Electoral College. Under *subsection (5)* of the section, the presiding member has a deliberative vote or votes, and, in any case where there are more than 2 members voting and there is an equality of votes, has a casting vote.

The new *section 707zzw* relates to the Infrastructure Auckland deed.

Subsection (1) provides that the Minister of Local Government must, in consultation with the Auckland Regional Services Trust and the Electoral College, prepare the Infrastructure Auckland deed required for the purposes of *paragraphs (a) to (d) of section 707zzk (1)* and *paragraphs (a) to (c) of section 707zzr (1)*.

Subsection (2) provides that the Infrastructure Auckland deed is to come into force on a date to be appointed by the Governor-General by Order in Council made on the recommendation of the Minister.

Subsection (3) provides that the text of the Infrastructure Auckland deed must be set out in a Schedule to that Order in Council.

Subsection (4) provides that the Infrastructure Auckland deed may be amended from time to time by Order in Council made on the recommendation of the Minister.

Subsection (5) provides that every amendment comes into force on a date to be appointed by Order in Council.

Subsection (6) provides that no provision of the Infrastructure Auckland deed may be inconsistent with the provisions of the Local Government Act 1974 and the Infrastructure Auckland deed may not be amended to become inconsistent with the provisions of that Act.

Subsection (7) provides that any provision of the Infrastructure Auckland deed which is inconsistent with the provisions of the Local Government Act 1974 and any amendment of the Infrastructure Auckland deed which is inconsistent with the provisions of that Act is unenforceable and of no effect.

Subsection (8) provides that every Order in Council made under the section is deemed to be a regulation for the purposes of the Acts and Regulations Publication Act 1989 but not for the purposes of the Regulations Disallowance Act 1989.

The new *section 707zzx* requires the Infrastructure Auckland deed to contain provisions—

- (a) Giving effect to the purposes of *paragraphs (a) to (d) of section 707zzk (1) and paragraphs (a) to (c) of section 707zzr (1)*;
- (b) Ensuring that grants made by Infrastructure Auckland under *section 707zzw (1)*—
 - (i) Are made primarily for the purpose of funding the capital components of projects; and
 - (ii) Are not inconsistent with any Auckland Regional Land Transport Strategy or the Auckland regional growth strategy; and
 - (iii) Are not inconsistent with Transfund New Zealand’s funding policies; and
 - (iv) Are not for services for which funding has already been identified;
- (c) Specifying the circumstances (which must be exceptional circumstances) in which Infrastructure Auckland may make grants towards the operating expenses of projects;
- (d) Ensuring that Infrastructure Auckland makes it clear to those local authorities and other persons which, or who, receive grants made under *section 707zzw (1)* that the assistance given by Infrastructure Auckland in respect of a project will be limited to the amount of the grant and that Infrastructure Auckland will not have any residual liabilities in respect of the project;
- (e) Providing for the activities in future of Infrastructure Auckland to be the subject of a review, to be conducted by the Minister, in consultation with the Electoral College, in the period of 12 months ending with the close of 30 September 2008 for the purpose of determining whether there is to be a continuing need for Infrastructure Auckland to make grants under *section 707zzk (1)*;
- (f) For the remuneration of the members of Infrastructure Auckland;
- (g) Specifying the requirements in relation to the contents of Infrastructure Auckland’s statement of corporate intent;
- (h) Specifying the procedure by which Infrastructure Auckland’s statement of corporate intent may be modified;
- (i) Such other matters as the Minister considers appropriate.

The new *section 707zzy* provides that Infrastructure Auckland must prepare and adopt, as soon as practicable after it is established, the first of the funding plans required by *section 707zzk (2) (a)*.

The preparation and adoption of the funding plan and each subsequent funding plan must be carried out both—

- (a) In consultation with the local authorities in the Auckland Region; and
- (b) In accordance with the special consultative procedure.

The new *section 707zzz* provides that the provisions of the new *Schedule 17B* to the Local Government Act 1974 (which schedule is based on *Schedule 17A* of the principal Act) have effect in relation to Infrastructure Auckland and its proceedings.

Accountability and Accounting

The new *section 707zza* sets out certain requirements that Infrastructure Auckland must observe in the conduct of its affairs.

Subsection (2) provides that the financial year for Infrastructure Auckland commences on 1 July in each year and ends on 30 June in the following year.

The new *section 707zzb* (which is based on *section 223D* of the principal Act) provides that Infrastructure Auckland must prepare an annual plan.

The new *section 707zzc* provides that the statement of policy that is required by *section 707zzb (5)* to be included in the annual plan must include, for the financial year to which the report under *section 707zzb* relates,—

- (a) A list of all projects or parts of projects to be funded in that financial year; and
- (b) A list of all applications for grants under *section 707ZZK (1)* that Infrastructure Auckland had on hand and, if practicable, an analysis of the extent to which each project or part of a project to which the application relates meets the evaluation criteria; and
- (c) An outline of the long-term funding plan in force under *section 707ZZY*; and
- (d) An explanation of—
 - (i) Any changes in the long-term funding plan; and
 - (ii) Any inconsistencies between the policy for that financial year and the long-term funding plan.

The new *section 707ZZD* (which is based on section 223E of the principal Act) provides that Infrastructure Auckland must prepare and adopt an annual report.

America's Cup

The new *section 707ZZE* (which is based on section 707ZJA (1) (d) (iii) and section 707ZJA (3) (b) of the principal Act) sets out the functions of Infrastructure Auckland in relation to the America's Cup. These functions are, given the more advanced stage of the project, much more limited than the functions of the Auckland Regional Services Trust under section 707ZJA.

The new *section 707ZZF* (which is largely a re-enactment of section 707ZJC of the principal Act) requires Infrastructure Auckland to prepare annually a report on the assets that it owns in relation to the America's Cup project.

The proposed new *section 707ZZG* (which is based on section 707ZJD of the principal Act) relates to the power of Infrastructure Auckland to dispose of the shares that it holds in America's Cup Village Limited.

Dissolution of Auckland Regional Services Trust

The new *section 707ZZH* provides that the Auckland Regional Services Trust is dissolved on 1 October 1998.

Subsection (2) provides that (except for the shares in Watercare Services Limited) all the assets and liabilities of the Auckland Regional Services Trust become, on the day on which Infrastructure Auckland is established, assets and liabilities of Infrastructure Auckland.

The new *section 707ZZI* provides that, for the purposes of the Inland Revenue Acts,—

- (a) The Auckland Regional Services Trust and Infrastructure Auckland are, in relation to all assets and liabilities that, by this Bill, become assets and liabilities of Infrastructure Auckland, deemed to be the same person:
- (b) All transactions entered into by, and all acts of, the Auckland Regional Services Trust before the commencement of this section, in relation to the assets and liabilities that, by this Bill, become assets and liabilities of Infrastructure Auckland, are deemed to have been entered into or performed by Infrastructure Auckland on the date on which they were entered into or performed by the Auckland Regional Services Trust.

The new *sections 707ZZJ and 707ZZK* are largely based on sections 707Z and 707ZA of the principal Act. Those sections relate to the obligations of Infrastructure Auckland under sections 40 to 42 of the Public Works Act 1981, which sections relate to the disposal of land that is no longer required for public work.

The new *section 707ZZL* (which is based on sections 707ZD, 707ZE, and 707ZEA of the principal Act) provides that, on 1 October 1998, each employee of the Auckland Regional Services Trust ceases to be an employee of the Auckland Regional Services Trust and becomes an employee of Infrastructure Auckland.

The clause also contains provisions, which are now fairly standard, in relation to contracts of service, continuous service, terms and conditions of employment, and redundancy. No employee to whom the section applies is entitled to receive any payment or other benefit by reason only of that person ceasing by virtue of the section to be an employee of the Auckland Regional Services Trust.

The new *section 707zzm* provides for the preparation and auditing of the final accounts of the Auckland Regional Services Trust.

The new *section 707zzn* provides that, on 1 October 1998, all the shares in the capital of Watercare Services Limited are divided between the territorial authorities specified in *subsection (2)* of the section. Each of those territorial authorities becomes the owner of the number of shares specified opposite its name in *subsection (2)*.

Those territorial authorities and the number of shares of which each of those territorial authorities becomes the owner are as follows:

| Name of Territorial Authority | Number of Shares in Watercare Services Limited |
|-------------------------------|--|
| Auckland City Council | 110,987,507 |
| Manukau City Council | 64,445,957 |
| North Shore City Council | 26,854,003 |
| Papakura District Council | 10,565,894 |
| Rodney District Council | 4,543,882 |
| Waitakere City Council | 43,295,921 |

The division of the shares is based on the retail water connections in the districts of each of the territorial authorities.

Subsection (4) provides that each such territorial authority—

- (a) Must retain not only those shares but also any other shares in Watercare Services Limited that are held by that territorial authority in the future; and
- (b) Must ensure that Watercare Services Limited does not dispose of its undertaking or any material part or parts thereof which is, or are necessary to the conduct of its business; and
- (c) Must, in its capacity as the owner of shares in Watercare Services Limited, act in the best interests of the inhabitants of the Auckland Region.

Subsection (5) provides that no person who is a member or employee of a local authority may hold office as a director of Watercare Services Limited.

Subsection (6) provides that the shareholders of Watercare Services Limited must, not later than 30 September 1998, enter into an agreement—

- (a) Specifying an objective process to be used by them in selecting persons for appointment as directors of Watercare Services Limited; and
- (b) Requiring persons appointed as directors of Watercare Services Limited to be both—
 - (i) Persons appointed for their knowledge and experience of 1 or more of the following matters, namely, commerce, economics, law, engineering, environmental matters, or accountancy; and
 - (ii) Persons who, in the opinion of the shareholders, will assist Watercare Services Limited to achieve its principal objective.

The new *section 707zzo* (which is largely a re-enactment of *section 707f* of the principal Act) relates to the management of Watercare Services Limited. The major difference is that the new section no longer provides for the issue to customer territorial authorities of non-voting shares in Watercare Services Limited. This is seen as unnecessary as the customer territorial authorities will now be the owners of all the shares in Watercare Services Limited.

Dissolution of Regional Treasury Management Limited

The new *section 707zzp* provides that Regional Treasury Management Limited is dissolved on 1 October 1998.

Subsection (2) provides that all the assets and liabilities of Regional Treasury Management Limited become, on 1 October 1998, assets and liabilities of Infrastructure Auckland.

The new *section 707zzzQ* provides for the preparation and auditing of the final accounts of Regional Treasury Management Limited.

Miscellaneous Provisions

The new *section 707zzzR* (which is based on section 707s of the principal Act) provides that certain matters are not affected by the vesting of assets and liabilities in different bodies by this Part of the Bill.

The new *section 707zzzS* (which is based on section 707T of the principal Act) provides that the vesting of assets and liabilities in Infrastructure Auckland does not affect contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices relating to those assets or liabilities entered into by, made with, given to or by, or addressed to the Auckland Regional Services Trust (whether alone or with any other person) subsisting immediately before the vesting of such assets and liabilities by that provision.

The new *section 707zzzT* is a machinery provision relating to the recording in registers of the name of Infrastructure Auckland.

Transitional Provisions

The new *sections 707zzzU to 707zzzZ*, which come into force on 1 October 1998, contain transitional provisions in relation to the membership of Infrastructure Auckland.

Clause 9, which comes into force on 1 October 1998, inserts a new *Schedule 17B* in the schedules of the principal Act. The new schedule, which contains provisions relating to Infrastructure Auckland, is based on Schedule 17A of the principal Act (which contains provisions relating to the Auckland Regional Services Trust).

Amendments to Ombudsmen Act 1975

Clause 10, which comes into force on 1 October 1998, effects a consequential amendment to the Ombudsmen Act 1975.

Amendment to Transit New Zealand Act 1989

Clause 11, which comes into force on 1 October 1998, inserts a new *section 104A* into the Transit New Zealand Act 1989. The new section provides that, for the purposes of obtaining funding for a project or part of a project that—

- (a) Consists primarily of roading; and
- (b) Is a capital project within the meaning of any of the provisions of subparagraphs (ii) to (iv) of paragraph (b) of the definition of the term “capital project”; and
- (c) Is carried out by the Authority in the region in respect of which the Auckland Regional Council is constituted,—

Transit New Zealand may, in accordance with the new *Part XLIVc* of the Local Government Act 1974, apply for, and obtain and expend, a grant from Infrastructure Auckland.

No such money may be paid by Transit New Zealand for the purpose in respect of which it is granted unless the price of the project in respect of which it is to be paid has been determined by an applicable competitive pricing procedure approved by Transfund New Zealand under section 26 of the Transit New Zealand Act 1989, and no such money may be paid to any local authority.

Nothing in the section requires Transit New Zealand to obtain the approval of Transfund New Zealand for expenditure under the section.

Amendment to Income Tax Act 1994

Clause 12, which comes into force on 1 October 1998, amends the Income Tax Act 1994. The amendment has the effect of making Infrastructure Auckland a local authority for the purposes of that Act.

Repeals, Consequential Amendment, and Revocations

Clause 13, which comes into force on 1 October 1998, effects consequential repeals.

Clause 14 effects a consequential amendment to section 707A of the principal Act (which relates to the Auckland Regional Council).

Clause 15, which comes into force on 1 October 1998, effects consequential revocations.

Hon Maurice Williamson

LOCAL GOVERNMENT AMENDMENT (NO. 6)

ANALYSIS

| Title | |
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| <i>Cancellation of Election of Members of Auckland Regional Services Trust</i> | 707zzq. Electoral College |
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| <i>Dissolution of Auckland Community Trust</i> | 707zzs. Appointment of members of Infrastructure Auckland |
| 3. Dissolution of Auckland Community Trust | 707zzt. Members of Electoral College |
| 4. Final accounts of Auckland Community Trust | 707zzu. Chairperson of Electoral College |
| 5. Taxes and duties | 707zzv. Meetings of Electoral College |
| 6. Repeals | 707zzw. Infrastructure Auckland deed |
| 7. New heading and sections inserted | 707zzx. Contents of Infrastructure Auckland deed |
| <i>Auckland Regional Growth Strategy</i> | 707zzy. Long-term funding plan |
| 37se. Auckland regional growth strategy | 707zzz. Proceedings of Infrastructure Auckland |
| 37sf. Copies of regional growth strategy | <i>Accountability and Accounting</i> |
| 37sg. Regional growth strategy forum | 707zza. Conduct of affairs |
| 37sh. Consultation | 707zzb. Annual plan |
| 8. New Part XLIVc inserted | 707zzc. Annual policy in relation to grants |
| PART XLIVc | 707zzd. Annual report |
| INFRASTRUCTURE AUCKLAND | <i>America's Cup</i> |
| 707zzh. Commencement | 707zze. Functions in relation to America's Cup |
| 707zzi. Interpretation | 707zzf. Obligation to report annually on assets |
| 707zzj. Constitution of Infrastructure Auckland | 707zzg. Power to dispose of shares |
| 707zzk. Principal function of Infrastructure Auckland | <i>Dissolution of Auckland Regional Services Trust</i> |
| 707z zl. Grants | 707zzh. Dissolution of Auckland Regional Services Trust |
| 707zzm. Special obligations of Infrastructure Auckland | 707zzi. Taxes and duties |
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| 707z zoa. Statement of corporate intent | 707zzl. Employees |
| | 707zzm. Final accounts of Auckland Regional Services Trust |

| | |
|--|---|
| 707zzzn. Vesting of shares in Watercare Services Limited | 707zzzw. Membership of Infrastructure Auckland in period beginning on 1 January 2000 and ending with 30 June 2001 |
| 707zzzo. Water services | 707zzzx. Power to resign |
| <i>Dissolution of Regional Treasury Management Limited</i> | 707zzzy. Extraordinary vacancies |
| 707zzzp. Dissolution of Regional Treasury Management Limited | 707zzzz. Chairperson of Infrastructure Auckland |
| 707zzzq. Final accounts of Regional Treasury Management Limited | 9. New Schedule 17B inserted |
| <i>Miscellaneous Provisions</i> | <i>Amendments to Ombudsmen Act 1975</i> |
| 707zzzr. Certain matters not affected by this Part | 10. First Schedule amended |
| 707zzzs. Provisions relating to vesting of assets and liabilities in Infrastructure Auckland | <i>Amendment to Transit New Zealand Act 1989</i> |
| 707zzzt. Registers | 11. Grants from Infrastructure Auckland |
| <i>Transitional Provisions</i> | <i>Amendment to Income Tax Act 1994</i> |
| 707zzzu. Initial membership of Infrastructure Auckland | 12. Definitions |
| 707zzzv. Membership of Infrastructure Auckland in period beginning on 1 July 1999 and ending with 31 December 1999 | <i>Repeals, Consequential Amendment, and Revocations</i> |
| | 13. Repeals |
| | 14. Application of provisions to Auckland Regional Council |
| | 15. Revocations |
| | SCHEDULE |
| | New Schedule 17B of Principal Act |

A BILL INTITULED

An Act to amend the Local Government Act 1974 for the purpose of making better provision in relation to the infrastructure of the Auckland Region by—

- (a) Dissolving the Auckland Regional Services Trust, on 1 October 1998, and establishing, on that date, a body called Infrastructure Auckland, which is required to carry out its functions in the best interests of the inhabitants of the Auckland Region and which has among its functions—
- (i) The making of grants to help fund projects or parts of projects in the Auckland Region; and
- (ii) The management of its assets:
- (b) Vesting the assets of the Auckland Regional Services Trust (other than its shares in Watercare Services Limited) in Infrastructure Auckland:
- (c) Vesting the shares in Watercare Services Limited in territorial authorities of the Auckland Region in proportion to their retail water connections and requiring those territorial authorities to retain those shares:

- (d) Requiring the Auckland Regional Council to prepare and adopt an Auckland regional growth strategy:
- 5 (e) Dissolving, on 1 August 1998, the Auckland Community Trust:
- (f) Cancelling the triennial general election of members of the Auckland Regional Services Trust that would otherwise be held on 10 October 1998:
- 10 (g) Making provision incidental to the above-mentioned matters

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

15 **1. Short Title and commencement**—(1) This Act may be cited as the Local Government Amendment Act (No. 6) 1998, and is part of the Local Government Act 1974* (“the principal Act”).

(2) Except as otherwise provided in this Act, this Act comes into force on the date on which this Act receives the Royal assent.

*R.S. Vol. 25, p. 1

Amendments: 1991, Nos. 49, 58, 115; 1992, Nos. 42, 71, 74, 113, 139; 1994, No. 68; 1995, Nos. 25, 40; 1996, Nos. 12, 43, 83, 84, 96; 1997, Nos. 49, 78, 95

20 *Cancellation of Election of Members of Auckland Regional Services Trust*

25 **2. Cancellation of 1998 triennial general election of members of Auckland Regional Services Trust**—(1) No election of members of the Auckland Regional Services Trust may be held in the period commencing with the passing of this Act and ending with the close of 10 October 1998 (the date of the triennial general election of members of local authorities).

(2) This section has effect notwithstanding anything in—

- 30 (a) The constitution of the Auckland Regional Services Trust; or
- (b) The principal Act; or
- (c) The Local Elections and Polls Act 1976.

Dissolution of Auckland Community Trust

35 **3. Dissolution of Auckland Community Trust**—(1) The Auckland Community Trust established under section 707ZW of the principal Act is dissolved as from the commencement of 1 August 1998.

(2) On 1 August 1998,—

(a) All assets and liabilities of the Auckland Community Trust become assets and liabilities of the Auckland Regional Services Trust:

(b) All money payable to the Auckland Community Trust becomes payable to the Auckland Regional Services Trust: 5

(c) All proceedings pending by or against the Auckland Community Trust may be carried on, completed, or enforced by or against the Auckland Regional Services Trust. 10

(3) Subject to **subsection (4)**, on 1 August 1998, all property, real and personal, vested in the Auckland Community Trust as at the close of 31 July 1998, vests in the Auckland Regional Services Trust, subject to all existing encumbrances.

(4) All property to which **subsection (3)** applies vests in the Auckland Regional Services Trust free of the trust imposed by section 707ZZA of the principal Act. 15

(5) This section comes into force on 1 August 1998.

4. Final accounts of Auckland Community Trust—

(1) As soon as reasonably practicable after the commencement of this section, the Auckland Regional Services Trust must cause to be prepared the final accounts of the Auckland Community Trust as at the close of 31 July 1998. 20

(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be sent by the Auckland Regional Services Trust to the Minister of Local Government. 25

(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be presented to the House of Representatives by the Minister of Local Government as soon as practicable after their receipt by that Minister. 30

(4) This section comes into force on 1 August 1998.

5. Taxes and duties—(1) For the purposes of the Inland Revenue Acts— 35

(a) The Auckland Community Trust and the Auckland Regional Services Trust are, in relation to all assets and liabilities that, by this Act, become assets and liabilities of the Auckland Regional Services Trust, deemed to be the same person: 40

(b) All transactions entered into by, and all acts of, the Auckland Community Trust before the commencement of this section, in relation to all

5 assets and liabilities that, by this Act, become assets and liabilities of the Auckland Regional Services Trust, are deemed to have been entered into or performed by the Auckland Regional Services Trust on the date on which they were entered into or performed by the Auckland Community Trust.

(2) This section comes into force on 1 August 1998.

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

10 (a) Section 225A (2) of the principal Act (as inserted by section 28 of the Local Government Amendment Act 1992):

(b) Subsections (1) (c) and (2) of section 707ZU of the principal Act (as inserted by section 68(1) of the Local Government Amendment Act 1992):

15 (c) Sections 707ZW to 707ZZF of the principal Act (as inserted by section 68(1) of the Local Government Amendment Act 1992):

(d) So much of the First Schedule of the Company Law Reform (Transitional Provisions) Act 1994 as relates to section 707ZY (c) of the principal Act (as inserted by section 68 of the Local Government Amendment Act 1992).

(2) This section comes into force on 1 August 1998.

25 **7. New heading and sections inserted**—The principal Act is amended by inserting, after section 37SD (as inserted by section 7 of the Local Government Amendment Act 1992), the following heading and sections:

“Auckland Regional Growth Strategy

30 **“37SE. Auckland regional growth strategy**—(1) The Auckland Regional Council must prepare and adopt a regional growth strategy for its region.

“(2) The objective of the strategy for the Auckland Region will be to ensure growth is accommodated in a way that meets the best interests of the inhabitants of the Auckland Region.

35 “(3) The regional growth strategy prepared under this section may include (but must not be limited to)—

“(a) Identification of the preferred location of growth within the Auckland Region:

40 “(b) The general location of regionally significant infrastructure and services:

“(c) Such other measures as are considered appropriate.

“(4) A regional growth strategy must not be inconsistent with any regional policy statement or plan that is for the time being in force under the Resource Management Act 1991 or any proposed regional policy statement or proposed plan under that Act.

5

“(5) The Auckland Regional Council may amend the regional growth strategy from time to time to reflect any significant change in the circumstances that existed when the strategy was prepared or was last amended.

“**37SF. Copies of regional growth strategy**—The Auckland Regional Council, once a regional growth strategy, or any amendment to a regional growth strategy, has been adopted by it,—

10

“(a) Must make that strategy or amendment available for public inspection at the offices of the Auckland Regional Council and at such other places as the Regional Council appoints in the area to which the strategy or amendment applies; and

15

“(b) Must make copies of that strategy or amendment available to the public—

20

“(i) Free of charge; or

“(ii) At a reasonable charge; and

“(c) Must, within 20 working days after approving that strategy or amendment, send copies of that strategy or amendment to each territorial authority in the Auckland Region.

25

“**37SG. Regional growth strategy forum**—(1) The Auckland Regional Council must establish a regional growth strategy forum under this section for its region.

“(2) The regional growth strategy forum is to consist of such persons as may from time to time be appointed by the Auckland Regional Council, and, in making such appointments, the Auckland Regional Council may appoint such persons as it considers to be suitable.

30

“(3) The persons appointed under **subsection (2)** must include (but are not to be limited to) representatives of—

35

“(a) The Auckland Regional Council;

“(b) The territorial authorities in the region.

“(4) The function of the regional growth strategy forum is to advise on and approve the regional growth strategy prepared under **section 37SE** and any amendment to that strategy before any such strategy or amendment is adopted by the Auckland Regional Council.

40

5 “(5) The provisions of this Act and the Local Government Official Information and Meetings Act 1987 relating to the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, apply in respect of meetings of the regional growth strategy forum.

“37SH. **Consultation**—(1) The preparation and adoption of the regional growth strategy or any amendment to that strategy, must be carried out by the Auckland Regional Council in accordance with the special consultative procedure.

10 “(2) The Auckland Regional Council may require from any territorial authority within its region such information as the Auckland Regional Council considers it requires in order to properly perform its functions under this Act in relation to that strategy; and the territorial authority must supply promptly the
15 information required.”

8. New Part XLIVc inserted—The principal Act is amended by inserting, after Part XLIVB (as inserted by section 68 (1) of the Local Government Amendment Act 1992), the following Part:

20

“PART XLIVC

“INFRASTRUCTURE AUCKLAND

“707ZZH. **Commencement**—(1) This Part (other than sections 707ZZO to 707ZZX) comes into force on 1 October 1998.

25 (2) Sections 707ZZO to 707ZZX come into force on the date on which the Local Government Amendment Act (No. 6) 1998 receives the Royal assent.

“707ZZI. **Interpretation**—In this Part, unless the context otherwise requires,—

30 “‘America’s Cup’ means the yachting event known as the America’s Cup which is to take place in the years 1999 and 2000; and includes any preceding Challenger Series, Defender Series, or World Series:

35 “‘Auckland regional growth strategy’ means the Auckland regional growth strategy adopted by the Auckland Regional Council under section 37SE and for the time being in force:

“‘Auckland Regional Services Trust’ means the Auckland Regional Services Trust established under section 707P:

40 “‘Electoral College’ means the Electoral College established under section 707ZZO:

“ ‘Facility’—

“(a) Means any structure (including any building, equipment, or other device) planned, designed, constructed, or undertaken, or intended to be planned, designed, constructed, or undertaken, to provide in the Auckland Region an operational base for competitors in the America’s Cup; and 5

“(b) Includes—

“(i) The land on which any structure described in **paragraph (a)** is, or is intended to be, situated; and 10

“(ii) Such part of any structure described in **paragraph (a)**, and such part of any land (being land to which **subparagraph (i)** applies or land in the immediate vicinity of any such structure) as is set aside, or intended to be set aside, for the purpose of providing or maintaining public access to the waterfront area after the conclusion of the America’s Cup: 15 20

“ ‘Infrastructure Auckland’ means the corporation established by **section 707ZZI**:

“ ‘Infrastructure Auckland deed’ means the deed in force under **section 707ZZW**:

“ ‘Land transport’ has the meaning given to it by section 2 of the Transit New Zealand Act 1989: 25

“ ‘Passenger service’ has the meaning given to it by section 2 of the Transit New Zealand Act 1989:

“ ‘Passenger transport operation’ has the meaning given to it by section 2 of the Transit New Zealand Act 1989. 30

“**707ZZJ. Constitution of Infrastructure Auckland—**

(1) This subsection establishes a body corporate to be called Infrastructure Auckland.

“(2) Infrastructure Auckland is a body corporate with perpetual succession and a common seal and, subject to this Part and to any other Act or rule of law, has and may exercise, within the scope of its functions, all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity. 35

“(3) The common seal of Infrastructure Auckland is to be judicially noticed in all courts and for all purposes. 40

“**707ZZK. Principal function of Infrastructure Auckland—**(1) The principal function of Infrastructure Auckland is to contribute funds, by way of grants, in respect of

projects, or parts of projects, undertaken in the Auckland Region for the purpose of providing—

- “(a) Land transport; or
- “(b) Any passenger service; or
- 5 “(c) Any passenger transport operation; or
- “(d) Stormwater infrastructure,—

where the projects or parts of projects generate benefits to the community generally over and above any benefits that accrue to any identifiable persons or groups of persons.

10 “(2) Infrastructure Auckland must,—

- “(a) At least once every 3 years, prepare and adopt, in accordance with **section 707ZZY**, a 10-year funding plan:
- “(b) Evaluate, according to criteria specified in the Infrastructure Auckland deed, the projects referred to in **subsection (1)**:
- 15 “(c) Determine, according to criteria specified in the Infrastructure Auckland deed, the components of the projects referred to in **subsection (1)**.

20 “(3) Both capital of Infrastructure Auckland and income of Infrastructure Auckland may be distributed by way of grants under **subsection (1)**; but Infrastructure Auckland must, to the extent that income is available from time to time for the purpose, make such grants out of its income before making such grants out of its capital.

25 “(4) In **subsection (3)**, ‘income’—

- “(a) Means—
 - “(i) Revenue received by Infrastructure Auckland; and
 - “(ii) Any cash that Infrastructure Auckland has, either in hand or by way of cash investments; but
- 30 “(b) Does not include any shares in Ports of Auckland Limited or Northern Disposal Systems Limited or America’s Cup Village Limited or any money that it receives from the sale of any shares in any of those companies.

35 “(5) Notwithstanding the provisions of sections 594R (2) and 594Zs, Infrastructure Auckland is not entitled to appoint as a director of any local authority trading enterprise or company owned or controlled by it—

- 40 “(a) Any elected member or any employee of any local authority wholly or partly within the Auckland Region; or
- “(b) Any member or employee of Infrastructure Auckland.

“(6) Infrastructure Auckland must, in carrying out its functions, act in the best interests of the inhabitants of the Auckland Region.

“707ZZL. **Grants**—(1) Any local authority which, or other person who, intends to undertake within the Auckland Region a project in respect of which Infrastructure Auckland may make a grant in the exercise of its functions under **section 707ZZK (1)** may apply to Infrastructure Auckland for such a grant. 5

“(2) Any grant made by Infrastructure Auckland under **section 707ZZK (1)** may be made subject to such terms and conditions (not inconsistent with this Act) as Infrastructure Auckland thinks fit. 10

“(3) Infrastructure Auckland must, where it decides to make a grant under **section 707ZZK (1)** to a person or body that is not a local authority,—

“(a) Designate a relevant local authority or group of local authorities to be responsible for seeing that the grant is applied for the purpose for which the grant is made; and 15

“(b) Pay to the local authority or local authorities a fair and reasonable sum of money to cover the costs of seeing that the grant is applied for the purpose for which the grant is made. 20

“(4) Infrastructure Auckland may not be the contract manager of any project in respect of which it makes a grant under **section 707ZZK (1)**. 25

“707ZZM. **Special obligations of Infrastructure Auckland**—(1) Infrastructure Auckland—

“(a) Must adopt the special consultative procedure in relation to any proposal of Infrastructure Auckland to sell or otherwise dispose of the shares (and any shares owned in future) in Ports of Auckland Limited, in Northern Disposal Systems Limited, or in America’s Cup Village Limited: 30

“(b) Must manage its assets in accordance with sound business practice: 35

“(c) Must avoid any imprudent increase in the level of its liabilities.

“(2) Infrastructure Auckland must not exercise the option of carrying out its work or performing its functions by using staff employed by it, unless it is satisfied that the advantages of that option clearly outweigh those of any other option. 40

“(3) Infrastructure Auckland must, subject to **subsection (4)**, avoid acquiring additional assets.

“(4) Nothing in **subsection (3)** prevents Infrastructure Auckland from acquiring property in any case where—

5 “(a) The advantages of acquiring the property, by purchase or by lease or otherwise howsoever, clearly outweigh those of any other option; or

“(b) The property is, in the opinion of Infrastructure Auckland, required, in accordance with sound business practice, for the carrying-out, from day to day, of its obligations in relation to its work and functions.

10 “707ZZN. **Membership of Infrastructure Auckland—**
(1) Infrastructure Auckland consists of such number of members, not exceeding 7 in number, as are appointed from time to time by the Electoral College in accordance with the
15 Infrastructure Auckland deed.

“(2) No person who is a member or employee of a local authority may hold office as a member of Infrastructure Auckland.

20 “(3) For the avoidance of doubt, it is declared that no person is, in acting as a member of Infrastructure Auckland, to be regarded as, or as having the duties of, a trustee under the Trustee Act 1956.

“(4) **Subsection (1)** is subject to the transitional provisions set out in **sections 707ZZU to 707ZZZ.**

25 “707ZZO. **Infrastructure Auckland to be local authority for certain purposes—**(1) Infrastructure Auckland is deemed to be a local authority for the purposes of—

“(a) The Local Authorities (Members’ Interests) Act 1968:

“(b) The provisions of sections 119C and 119D of this Act:

30 “(c) The provisions of sections 223F to 223L of this Act (other than the provisions of sections 223F (2) (g) and 223J (1) (d) of this Act):

“(d) Part XVII of this Act:

35 “(e) The provisions of Part XXXIVA of this Act (other than the provisions of sections 594A to 594G, 594I, 594J, 594K, 594L, 594M, 594N, 594O, 594P, and 594ZO of this Act):

“(f) Section 716A of this Act:

“(g) Sections 25 to 35 of the Public Finance Act 1977:

40 “(h) The Local Government Official Information and Meetings Act 1987:

“(i) The Port Companies Act 1988.

“(2) The members of the Infrastructure Auckland are, for the purposes of this Act, and the Parts of Acts, provisions, and sections referred to in **subsection (1)**, deemed to be elected members of a local authority.

“(3) Infrastructure Auckland is deemed to be a regional council for the purposes of Part XXXIVB. 5

“(4) The members of Infrastructure Auckland are, for the purposes of Part XXXIVB, deemed to be elected members of a regional council.

“707ZZOA. **Statement of corporate intent**—Sections 594s to 594W and section 594Y apply in relation to Infrastructure Auckland, with all necessary modifications, as if Infrastructure Auckland were a local authority trading enterprise and— 10

“(a) As if, in section 594s, for the words ‘The directorate of every local authority trading enterprise’ and the words ‘the local authority trading enterprise’, there were substituted in each case the words ‘Infrastructure Auckland’; and 15

“(b) As if, in section 594s, for the words ‘its shareholders’, there were substituted the words ‘the Electoral College’; and 20

“(c) As if section 594T required the statement of corporate intent to contain such matters as are specified for the purpose in the Infrastructure Auckland deed; and 25

“(d) As if, in section 594U, for the words ‘The directorate’, there were substituted the words ‘Infrastructure Auckland’; and

“(e) As if, in section 594U (a), for the words ‘shareholders or any of them’, there were substituted the words ‘Electoral College’; and 30

“(f) As if, in section 594U (b), for the word ‘shareholders’, there were substituted the words ‘Electoral College’; and

“(g) As if section 594V provided for the statement of corporate intent to be modified in accordance with a procedure prescribed by the Infrastructure Auckland deed; and 35

“(h) As if, in section 594W, for the words ‘the directorate’, there were substituted the words ‘Infrastructure Auckland’ and, for the word ‘shareholders’, there were substituted the words ‘Electoral College’; and 40

“(i) As if, in section 594Y, for the words ‘a local authority trading enterprise’ and the words ‘the local authority trading enterprise’, there were substituted in each case the words ‘Infrastructure Auckland’.

5 “707ZZP. **Transport-related enterprises**—Notwithstanding any other provision of this Part, the transfer by Infrastructure Auckland of any securities, interests, or undertakings to which Part XXXIVB applies is, and is deemed always to have been, subject to the provisions of that Part.

10 “707ZZQ. **Electoral College**—For the purposes of this Part, this section establishes an Electoral College.

“707ZZR. **Functions of Electoral College**—(1) The functions of the Electoral College are—

15 “(a) To appoint, in accordance with this Act and the Infrastructure Auckland deed, members of Infrastructure Auckland:

“(b) To appoint, in accordance with this Act and the Infrastructure Auckland deed, the chairperson of Infrastructure Auckland:

20 “(c) To discharge, in accordance with this Act and the Infrastructure Auckland deed, its duties in relation to Infrastructure Auckland’s statement of corporate intent:

“(d) To monitor the performance of Infrastructure Auckland:

25 “(e) To negotiate with the Minister from time to time amendments to the Infrastructure Auckland deed:

“(f) To carry out such other functions as are conferred on it by this Act or any other Act.

30 “(2) Subject to **subsection (1)**, the Electoral College has no power to give directions to, or to otherwise exercise control over, Infrastructure Auckland or any part of its business.

35 “(3) The local authorities that appoint the members of the Electoral College must bear jointly the costs of the operation of the Electoral College, and the proportion of those costs that is to be borne by each local authority is to be the same as the proportion of the total votes that the member appointed by the local authority is entitled to exercise at meetings of the Electoral College.

40 “(4) The provisions of this Act and the Local Government Official Information and Meetings Act 1987 relating to the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, apply in respect of meetings of the Electoral College.

“707ZZS. **Appointment of members of Infrastructure Auckland**—(1) The Electoral College must, in selecting persons for appointment as members of Infrastructure Auckland, use an objective process.

“(2) That process must involve—

5

“(a) The preparation and publication of a job description; and

“(b) An advertised recruitment process.

“(3) The criteria for appointment are to be set out in the Infrastructure Auckland deed and must require that those appointed are appointed for their knowledge and experience of 1 or more of the following matters, namely, commerce, economics, law, accountancy, infrastructure, transport, or capital intensive industries.

10

“707ZZT. **Members of Electoral College**—(1) The members of the Electoral College are to number 8.

15

“(2) Each territorial authority wholly or partly within the Auckland Region is to appoint 1 member.

“(3) The Auckland Regional Council is to appoint 1 member.

“(4) Each member of the Electoral College holds office at the pleasure of the local authority by which that member is appointed.

20

“(5) The number of votes that each member is entitled to exercise at each meeting of the Electoral College is as follows:

| Member | Votes |
|---|-------|
| Member appointed by Manukau City Council | 3 |
| Member appointed by Auckland City Council | 3 |
| Member appointed by Waitakere City Council | 2 |
| Member appointed by North Shore City Council | 2 |
| Member appointed by Papakura District Council | 1 |
| Member appointed by Rodney District Council | 1 |
| Member appointed by Franklin District Council | 1 |
| Member appointed by Auckland Regional Council | 1 |
| Total | 14 |

“(6) Where a member of the Electoral College is entitled, under **subsection (5)**, to exercise more than 1 vote, that member must, unless he or she abstains from voting on any resolution at a meeting of the Electoral College, cast all the votes to which he or she is so entitled for or against that resolution and may not divide his or her votes or cast a lesser number of votes than the number of votes to which that member is so entitled.

25

30

“(7) The powers of the Electoral College are not affected by any vacancy in its membership.

“707ZZU. **Chairperson of Electoral College**—(1) The Electoral College must appoint 1 of the members of the Electoral College to be the chairperson of the Electoral College.

5 “(2) The chairperson holds office as such until the chairperson’s successor is appointed or the chairperson sooner ceases to be a member of the Electoral College.

“(3) If a vacancy occurs in the office of chairperson, the Electoral College must, at its first meeting after the vacancy occurs, elect some other member of the Electoral College to be
10 chairperson.

“707ZZV. **Meetings of Electoral College**—(1) Meetings of the Electoral College are to be held at such times and places as the Electoral College or its chairperson appoints.

15 “(2) At every meeting of the Electoral College, the quorum is half of the members.

“(3) At all meetings of the Electoral College, the presiding member must be the chairperson if he or she is present. If he or she is not present, the members present must elect 1 of their number to preside at that meeting, and the member presiding
20 has all the powers of the chairperson for the purpose of that meeting.

“(4) Every question before the Electoral College must be determined by a majority of the votes of the members present at the meeting.

25 “(5) The presiding member has a deliberative vote or votes and, in any case where there are more than 2 members voting and there is an equality of votes, has a casting vote.

“(6) Subject to this Act, the Electoral College may regulate its procedure in such manner as it thinks fit.

30 “707ZZW. **Infrastructure Auckland deed**—(1) The Minister must, in consultation with the Auckland Regional Services Trust and the Electoral College, prepare and sign the Infrastructure Auckland deed required for the purposes of paragraphs (a) to (d) of section 707ZZK (1) and paragraphs (a) to (c) of section
35 707ZZR (1).

“(2) The Infrastructure Auckland deed comes into force on a date to be appointed by the Governor-General by Order in Council made on the recommendation of the Minister.

40 “(3) The text of the Infrastructure Auckland deed must be set out in a Schedule of the Order in Council.

“(4) The Infrastructure Auckland deed may be amended from time to time by Order in Council made on the recommendation of the Minister.

“(5) Every amendment comes into force on a date to be appointed by the Governor-General by Order in Council.

“(6) No provision of the Infrastructure Auckland deed may be inconsistent with the provisions of this Act and the Infrastructure Auckland deed may not be amended to become inconsistent with the provisions of this Act. 5

“(7) Any provision of the Infrastructure Auckland deed which is inconsistent with the provisions of this Act and any amendment of the Infrastructure Auckland deed which is inconsistent with the provisions of this Act is unenforceable and of no effect. 10

“(8) Every Order in Council made under this section is deemed to be a regulation for the purposes of the Acts and Regulations Publication Act 1989 but not for the purposes of the Regulations (Disallowance) Act 1989. 15

“707ZZX. **Contents of Infrastructure Auckland deed**—
The Infrastructure Auckland deed referred to in **section 707ZZW** must contain provisions—

“(a) Giving effect to the purposes referred to in **section 707ZZW (1)**: 20

“(b) Ensuring that grants made by Infrastructure Auckland under **section 707ZZK (1)**—

“(i) Are made primarily for the purpose of funding the capital components of projects; and

“(ii) Are not inconsistent with any Auckland Regional Land Transport Strategy or the Auckland regional growth strategy; and 25

“(iii) Are not inconsistent with Transfund New Zealand’s funding policies; and

“(iv) Are not for services for which funding has already been identified: 30

“(c) Specifying the circumstances (which must be exceptional circumstances) in which Infrastructure Auckland may make grants towards the operating expenses of projects: 35

“(d) Ensuring that Infrastructure Auckland makes it clear to those local authorities and other persons which, or who, receive grants made under **section 707ZZK (1)** that the assistance given by Infrastructure Auckland in respect of a project will be limited to the amount of the grant and that Infrastructure Auckland will not have any residual liabilities in respect of the project: 40

- 5 “(e) Providing for the activities and future of Infrastructure Auckland to be the subject of a review, to be conducted by the Minister, in consultation with the Electoral College, in the period of 12 months ending with the close of 30 September 2008, for the purpose of determining whether there is a continuing need for Infrastructure Auckland to make grants under **section 707ZZK (1)**;
- 10 “(f) For the remuneration of the members of Infrastructure Auckland;
- “(g) Specifying the requirements in relation to the contents of Infrastructure Auckland’s statement of corporate intent;
- 15 “(h) Specifying the procedure by which Infrastructure Auckland’s statement of corporate intent may be modified;
- “(i) Such other matters as the Minister considers appropriate.
- 20 “707ZZY. **Long-term funding plan**—(1) Infrastructure Auckland must prepare and adopt, as soon as practicable after it is established, the first of the funding plans required by **section 707ZZK (2) (a)**.
- “ (2) The preparation and adoption of the funding plan and each subsequent funding plan must be carried out both—
- 25 “(a) In consultation with the local authorities in the Auckland Region; and
- “(b) In accordance with the special consultative procedure.
- “ (3) The funding plan must contain—
- “ (a) Priorities for funding for the next 10 years;
- 30 “(b) The proposed sources of the funds with which the proposed grants are to be made;
- “ (c) Estimated cash flow projections for the period of the funding plan;
- “ (d) Estimates in relation to the holding and realisation of reserves, investments, and assets;
- 35 “(e) Estimates of changes in the net worth of Infrastructure Auckland;
- “ (f) Such other financial and non-financial information as is necessary for a proper understanding of the funding plan.
- 40 “ (4) The funding plan must not be inconsistent with any Auckland Regional Land Transport Strategy or the Auckland regional growth strategy or any regional policy statement or regional plan or any proposed regional policy statement or proposed regional plan under the Resource Management Act

1991 or any other plan or strategy specified in the Infrastructure Auckland deed.

“707ZZZ. **Proceedings of Infrastructure Auckland**—The provisions of **Schedule 17B** have effect in relation to Infrastructure Auckland and its proceedings.

5

“Accountability and Accounting

“707ZZZA. **Conduct of affairs**—(1) Infrastructure Auckland must, in conducting its affairs, ensure that—

“(a) Its business is conducted in a manner that is comprehensible and open to the public:

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“(b) Clear objectives are established for the exercise of its functions:

“(c) Conflicting objectives and conflicts of interest are resolved in a clear and proper manner.

“(2) The financial year for Infrastructure Auckland commences on 1 July in each year and ends on 30 June in the following year.

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“707ZZZB. **Annual plan**—(1) Infrastructure Auckland must, in accordance with the special consultative procedure, prepare and adopt, for the financial year beginning on the 1 July 1999 and for each subsequent financial year, a report—

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“(a) In respect of Infrastructure Auckland; and

“(b) In respect of each local authority trading enterprise, company, and other organisation that is under the control of Infrastructure Auckland or is a trading enterprise, company, or organisation in which Infrastructure Auckland has a significant interest.

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“(2) Infrastructure Auckland must, not later than 5 working days after giving public notice under section 716A (1) (b) of a proposal to adopt a report under this section, send a copy of the proposal to the Secretary.

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“(3) A report under this section must contain—

“(a) An outline of the long-term funding plan in force under **section 707ZZY**; and

“(b) The estimated amounts of the grants proposed to be made in that financial year under the funding plan:

35

“(c) The reasons why the projects specified in respect of that financial year are to be funded and a summary of the evaluation of each such project:

“(d) In particular terms for the financial year to which the report relates, and in general terms for each of the following 2 financial years, an outline of—

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“(i) The intended significant policies and objectives of Infrastructure Auckland, the local authority trading enterprise, company, or other organisation; and

5 “(ii) The nature and scope of the significant activities to be undertaken; and

“(iii) The performance targets and other measures by which performance may be judged in relation to the statement of service performance required by **section 707ZZD (3) (e)**; and

10 “(e) In particular terms for the financial year to which the report relates, and in general terms for each of the following 2 financial years, in total and for each of the significant activities of Infrastructure Auckland, an outline of—

15 “(i) The indicative costs; and

“(ii) The sources of funds.

“(4) A report under this section must include forecast financial statements of Infrastructure Auckland for the financial year to which the report relates, which financial statements must be prepared in accordance with generally accepted accounting practice and must consist of—

20 “(a) A statement of the estimated financial position at the beginning of the financial year and the forecast financial position at the end of that financial year; and

“(b) An operating statement reflecting the forecast revenue and expenses for the financial year; and

30 “(c) A statement of cash flows reflecting forecast cash flows; and

“(d) Such other statements as may be necessary to fairly reflect the financial position of Infrastructure Auckland, the resources available to it, and the financial results of its operations.

35 “(5) A report under this section must contain a statement of the policy that is to apply in relation to grants made in the financial year by Infrastructure Auckland in the performance of its principal function under **section 707ZZK (1)**.

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

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“(7) A report under this section must be adopted, before the end of the third month of the financial year to which the report relates, at a meeting of Infrastructure Auckland.

“(8) Where Infrastructure Auckland adopts a report under this section, it—

“(a) Must make that report available for public inspection at its office; and

“(b) Must make copies of that report available to the public—

“(i) Free of charge; or

“(ii) At a reasonable charge; and

“(c) Must, within 20 working days after its adoption, send copies of that report to—

“(i) The Electoral College; and

“(ii) The Secretary; and

“(iii) The Controller and Auditor-General; and

“(iv) The Parliamentary Library.

“707ZZZC. **Annual policy in relation to grants**—The statement of policy that is required by **section 707ZZB (5)** must include, for the financial year to which the report under **section 707ZZB** relates,—

“(a) A list of all projects or parts of projects to be funded in that financial year; and

“(b) A list of all applications for grants under **section 707ZZK (1)** that Infrastructure Auckland had on hand and, if practicable, an analysis of the extent to which each project or part of a project to which the application relates meets the evaluation criteria; and

“(c) An outline of the long-term funding plan in force under **section 707ZZY**; and

“(d) An explanation of—

“(i) Any changes in the long-term funding plan; and

“(ii) Any inconsistencies between the policy for that financial year and the long-term funding plan.

“707ZZZD. **Annual report**—(1) Infrastructure Auckland must prepare and adopt, in respect of the period beginning on 1 October 1998 and ending with 30 June 1999 and in respect of the financial year beginning on 1 July 1999 and in respect of each subsequent financial year, a report containing audited financial statements for the financial year to which the report relates.

5 “(2) The report adopted under **subsection (1)** must contain such information about the long-term funding plan and the grants policy as is sufficient to enable an informed assessment of the extent to which the objectives and provisions of the plan and policy have been met during the year to which the annual report relates.

10 “(3) The audited financial statements required by **subsection (1)** to be contained in the report adopted under that subsection must be prepared in accordance with generally accepted accounting practice and must include—

“(a) A statement of financial position; and
“(b) An overall operating statement; and
“(c) One operating statement in respect of each significant activity; and

15 “(d) A statement of cash flows; and
“(e) A statement of service performance (in statement or narrative form) including the performance targets and other measures by which the performance of Infrastructure Auckland may be judged in relation to its objectives, outputs, and outcomes; and

20 “(f) A statement of commitments (in statement or narrative form); and
“(g) A statement of the nature, general terms, and extent of the equity securities and financial interests of Infrastructure Auckland in any local authority trading enterprise; and

25 “(h) A summary of the term liabilities and incidental arrangements of Infrastructure Auckland by maturity showing, in respect of each financial year in which term liabilities are repayable, the amounts repayable in that year, together with a summary of the interest costs and other expenses incurred in connection with those amounts and arrangements for that year; and

30 “(i) The amount of the term liabilities that are secured, and a brief description of the nature of the security; and
“(k) Such other statements as may be necessary to fairly reflect the financial position of Infrastructure Auckland, the resources available to it, and the financial results of its operations.

40 “(4) The report adopted under **subsection (1)** must contain audited consolidated financial statements for the financial year in respect of—

“(a) Infrastructure Auckland; and

- “(b) Each local authority trading enterprise in which Infrastructure Auckland holds equity securities or has a financial interest; and
- “(c) Each other company or organisation that is under the control of Infrastructure Auckland or is a trading enterprise, company, or organisation in which Infrastructure Auckland has a significant interest. 5
- “(5) The audited consolidated financial statements under **subsection (4)** must be prepared in accordance with generally accepted accounting practice and must consist of— 10
- “(a) A statement of financial position; and
- “(b) An overall operating statement; and
- “(c) A statement of cash flows; and
- “(d) Such other statements as may be necessary to fairly reflect their financial position, resources available to them, and the financial results of their operations. 15
- “(6) Where Infrastructure Auckland has a financial interest in, or has otherwise provided finance or financial assistance to any local authority trading enterprise referred to in **subsection (4) (b)** or to any company or organisation referred to in **subsection (4) (c)**, Infrastructure Auckland must include, with the audited financial statements under **subsection (3)**, a separate statement disclosing the actual costs to the enterprise, company, or organisation concerned of that interest, finance, or financial assistance. 25
- “(7) For the purpose of **subsection (6)**, the provision of finance or financial assistance includes provision that is direct or indirect and whether by way of share capital, loan guarantee, the giving of security, or otherwise.
- “(8) The report adopted under **subsection (1)** must contain— 30
- “(a) The auditor’s report—
- “(i) On the financial statements specified in **subsections (3) to (5)**; and
- “(ii) On compliance with **subsection (10)**; and
- “(b) Such other information as is necessary to enable an informed assessment of the operations of each entity reported on, including— 35
- “(i) A comparison between the actual performance of Infrastructure Auckland for the financial year and the projected performance of Infrastructure Auckland for the financial year as set out in the report adopted in respect of the financial year under **section 707ZZB (1)**; and 40

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

5 “(9) The report adopted under **subsection (1)** must include a statement signed by the Chairperson of Infrastructure Auckland and by the chief executive of Infrastructure Auckland that all statutory requirements of this Part regarding financial management have been complied with.

10 “(10) The report must include, in a form to be determined from time to time by the Minister, information on the remuneration being received by each executive officer appointed under section 119C (1).

15 “(11) The report adopted under **subsection (1)** must be adopted before the end of the 5th month after the close of the financial year to which it relates.

“(12) Where Infrastructure Auckland adopts a report under this section, Infrastructure Auckland—

20 “(a) Must make that report available for public inspection at its office; and

“(b) Must make copies of that report available to the public—

“(i) Free of charge; or

“(ii) At a reasonable charge; and

25 “(c) Must, within 20 working days after its adoption, send copies of that report to—

“(i) The Electoral College; and

“(ii) The Secretary; and

“(iii) The Controller and Auditor-General; and

30 “(iv) The Parliamentary Library.

“America’s Cup

“707ZZZE. **Functions in relation to America’s Cup—**

35 (1) Infrastructure Auckland may, subject to the trust deed, make advances, on such terms and conditions as it thinks fit, to America’s Cup Village Limited for the purpose of enabling it to undertake the development or management of a facility.

“(2) Nothing in this Part prevents Infrastructure Auckland from continuing to hold equity or debt securities in America’s Cup Village Limited.

40 “707ZZZF. **Obligation to report annually on assets—**

Where, on 30 June 1999 or on 30 June in any subsequent year, Infrastructure Auckland owns any assets to which **section 707ZZE** refers, Infrastructure Auckland must publish in its annual

report for the financial year ending on that day the reasons why Infrastructure Auckland considers it should or should not continue to hold those assets.

“707ZZZG. **Power to dispose of shares**—(1) Subject to **section 707ZZM (1) (a)**, Infrastructure Auckland may sell, transfer, or otherwise dispose of the whole or any part of the shares of Infrastructure Auckland in America’s Cup Village Limited. 5

“(2) Where Infrastructure Auckland decides under **subsection (1)** to sell, transfer, or otherwise dispose of the whole or any part of the shares of Infrastructure Auckland in America’s Cup Village Limited to a territorial authority, wholly or partly within the Auckland Region, those shares may be disposed of, with or without consideration, and on such terms and conditions as may be agreed upon by Infrastructure Auckland and the territorial authority. 10 15

“(3) Any consideration paid by a territorial authority, wholly or partly within the Auckland Region, to Infrastructure Auckland for the sale of any shares in America’s Cup Village Limited may be of such amount or amounts payable at such time or times or in such manner as may be agreed upon by Infrastructure Auckland and the territorial authority. 20

“Dissolution of Auckland Regional Services Trust

“707ZZZH. **Dissolution of Auckland Regional Services Trust**—(1) The Auckland Regional Services Trust is dissolved as from the commencement of 1 October 1998. 25

“(2) Subject to **section 707ZZN** (relating to Watercare Services Limited), on 1 October 1998,—

“(a) All assets and liabilities of the Auckland Regional Services Trust become assets and liabilities of Infrastructure Auckland: 30

“(b) All money payable to the Auckland Regional Services Trust becomes payable to Infrastructure Auckland:

“(c) All proceedings pending by or against the Auckland Regional Services Trust may be carried on, completed, or enforced by or against Infrastructure Auckland. 35

“(3) On 1 October 1998, all property, real and personal, vested in the Auckland Regional Services Trust as at the close of 30 September 1998, vests in Infrastructure Auckland, subject to all existing encumbrances. 40

“707ZZZI. **Taxes and duties**—For the purposes of the Inland Revenue Acts,—

5 “(a) The Auckland Regional Services Trust and Infrastructure Auckland are, in relation to all assets and liabilities that, by this Act, become assets and liabilities of Infrastructure Auckland, deemed to be the same person:

10 “(b) All transactions entered into by, and all acts of, the Auckland Regional Services Trust before the commencement of this section, in relation to all assets and liabilities that, by this Act, become assets and liabilities of Infrastructure Auckland, are deemed to have been entered into or performed by Infrastructure Auckland on the date on which they were entered into or performed by the Auckland Regional Services Trust.

15 “707zzzj. **Modification of provisions of Public Works Act 1981**—Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the vesting of land in Infrastructure Auckland by **section 707zzzh (3)**, but sections 40 and 41 of that Act apply to that land, after the vesting, as if Infrastructure
20 Auckland were a local authority and the land had not been vested by that section.

25 “707zzzk. **Obligation to lodge caveat**—(1) The rights of persons from whom land was acquired and their successors to have land offered to them under section 40 (2) of the Public Works Act 1981 are deemed to be interests in land for the purposes of section 137 of the Land Transfer Act 1952, and the Auckland Regional Services Trust is authorised to lodge, and must lodge, an appropriate caveat.

30 “(2) In stating, in a caveat lodged pursuant to **subsection (1)**, the interest claimed by the caveator, it is sufficient, for the purposes of section 138 of the Land Transfer Act 1952, to refer to sections 40 to 42 of the Public Works Act 1981 and this subsection.

35 “707zzzl. **Employees**—Notwithstanding any other provision of this Act,—

40 “(a) On 1 October 1998, each employee of the Auckland Regional Services Trust ceases to be an employee of the Auckland Regional Services Trust and becomes an employee of Infrastructure Auckland; and the contract of service between the Auckland Regional Services Trust and the employee applies from the commencement of 1 October 1998, as a contract between the employee and Infrastructure Auckland; and

“(b) The contract of services is deemed to be unbroken and the employee’s period of service with the Auckland Regional Services Trust, and every other period of service of the employee that is recognised by the Auckland Regional Services Trust as continuous service, is deemed to have been a period of service with Infrastructure Auckland; and 5

“(c) The terms and conditions of employment of any employee to whom **paragraph (a)** applies, except as amended by this Act, are, on 1 October 1998 (and thereafter until varied or superseded by agreement), identical with the terms and conditions of his or her employment with the Auckland Regional Services Trust immediately before 1 October 1998; and 10

“(d) No employee to whom **paragraph (a)** applies is entitled to receive any payment or other benefit by reason only of that person ceasing by virtue of this section to be an employee of the Auckland Regional Services Trust. 15

“707ZZZM. **Final accounts of Auckland Regional Services Trust**—(1) As soon as reasonably practicable after the commencement of 1 October 1998, Infrastructure Auckland must cause to be prepared the final accounts of the Auckland Regional Services Trust as at the close of 30 September 1998. 20

“(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be sent by Infrastructure Auckland to the Minister. 25

“(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be presented to the House of Representatives by the Minister as soon as practicable after their receipt by the Minister. 30

“707ZZZN. **Vesting of shares in Watercare Services Limited**—(1) On 1 October 1998, all the shares in the capital of Watercare Services Limited are divided between the territorial authorities specified in **subsection (3)** and each of those territorial authorities becomes the owner of the number of shares specified opposite its name in that subsection. 35

“(2) On 1 October 1998, the number of shares in the capital of Watercare Services Limited that is specified in **subsection (3)** opposite the name of a territorial authority are, by this section, vested in that territorial authority. 40

“(3) The territorial authorities between which the shares are divided by **subsection (1)** and the number of shares of which each of those territorial authorities becomes the owner under **subsection (1)** are as follows:

| Name of Territorial Authority | Number of Shares in Watercare Services Limited |
|-------------------------------|--|
| Auckland City Council | 110,987,507 |
| Manukau City Council | 64,445,957 |
| North Shore City Council | 26,854,003 |
| Papakura District Council | 10,565,894 |
| Rodney District Council | 4,543,882 |
| Waitakere City Council | 43,295,921 |

5 “(4) Each territorial authority that, under **subsection (1)**, becomes the owner of shares in Watercare Services Limited—

“(a) Must retain not only those shares but also any other shares in Watercare Services Limited that are held by that territorial authority in the future; and

10 “(b) Must ensure that Watercare Services Limited does not dispose of its undertaking or any material part or parts thereof which is or are necessary to the conduct of its business; and

15 “(c) Must, in its capacity as the owner of shares in Watercare Services Limited, act in the best interests of the inhabitants of the Auckland Region.

“(5) No person who is a member or employee of a local authority may hold office as a director of Watercare Services Limited.

20 “(6) The shareholders of Watercare Services Limited must, not later than 30 September 1998, enter into an agreement—

“(a) Specifying an objective process to be used by them in selecting persons for appointment as directors of Watercare Services Limited; and

25 “(b) Requiring persons appointed as directors of Watercare Services Limited to be both—

“(i) Persons appointed for their knowledge and experience of 1 or more of the following matters, namely, commerce, economics, law, engineering, environmental matters, or accountancy; and

30 “(ii) Persons who, in the opinion of the shareholders, will assist Watercare Services Limited to achieve its principal objective.

35 “707ZZZO. **Water services**—(1) Notwithstanding anything in this Act or any other Act, Watercare Services Limited—

- “(a) Must manage its business efficiently with a view to maintaining prices for water and wastewater services at the minimum levels consistent with the effective conduct of that business and the maintenance of the long-term integrity of its assets: 5
- “(b) May, in accordance with its current statement of corporate intent, fund its business requirements—
- “(i) By including the cost of its business requirements in its prices and charges for any relevant services; or 10
- “(ii) Notwithstanding **paragraph (e)**, by borrowing or by entering into any financial instrument, financial arrangement, or financial transaction of a debt-raising nature; or
- “(iii) By using any or all of the methods described in **subparagraphs (i) and (ii)**: 15
- “(c) Subject to **subsection (2)**, must not pay any dividend or distribute any surplus in any way, directly or indirectly, to its owners or any shareholder:
- “(d) Subject to **subsection (2)**, must decide promptly in respect of any year in which a surplus arises, whether or not to return that surplus to its customers and, if it is to do so, to determine and implement the method by which that surplus may be returned, whether by way of rebate, discount, price adjustment calculated by reference to prior or future charges to those customers, or otherwise: 20 25
- “(e) Is limited to the performance of functions, and the conduct of business, in relation to waterworks, bulk water-supply, sewerage, and the treatment and disposal of sewage and trade wastes, but has authority to exercise— 30
- “(i) Such powers ancillary to those functions as were, immediately before the commencement of section 68 of the Local Government Amendment Act 1992, powers that could have been exercised by the Auckland Regional Council in relation to the water services assets; and 35
- “(ii) Such powers as it agrees, with all territorial authorities in the Auckland Region, to perform for those territorial authorities or in conjunction with them: 40
- “(f) Is entitled to—
- “(i) Apply the provisions of the Auckland Regional Council Trade Waste Bylaw 1991; and 45

- 5 “(ii) Exercise the powers under the Auckland Metropolitan Drainage Act 1960 that relate directly to the water services assets, as if it were and always had been the Auckland Regional Council,—
- until the close of 30 June 1999 or such later date as the Governor-General may, by Order in Council, specify from time to time:
- 10 “(g) Is not required to comply with section 594T (f) but must instead specify the means by which any residual surplus is to be returned to its customers:
- “(h) Is not required to comply with section 594Z (5) (b):
- “(i) Must, in its financial statements, identify clearly and separately—
- 15 “(i) The financial position of its waterworks and bulk water-supply activities; and
- “(ii) The financial position of its activities in relation to sewerage and the collection, treatment, and disposal of sewage and trade wastes:
- 20 “(j) Must ensure that its water and drainage services are costed and priced separately:
- “(k) Must, at least 4 months before the end of each financial year, prepare and supply to each shareholder an indicative asset management plan for the next financial year, which asset management plan must describe the projected condition of its significant assets at the commencement of that year and outline the rationale for and nature, extent, and estimated costs of its proposed activities in respect of—
- 25 “(i) The maintenance and repair of existing assets; and
- 30 “(ii) The renewal of existing assets; and
- “(iii) The upgrading or extension of the performance or capacity of existing assets; and
- 35 “(iv) The acquisition or construction of new assets:
- “(l) Must, at least 4 months before the end of each financial year, prepare and supply to each shareholder, after undertaking a comparative assessment of different funding options, an indicative funding plan for the next financial year, which funding plan must identify for the next financial year the nature and scope of the activities proposed to be undertaken (including, but not limited to, operational requirements, renewals, and significant new
- 40

projects), and its planned funding requirements and funding sources, showing—

“(i) How the prices and charges proposed in the plan have been calculated:

“(ii) A summary of the results of the comparative assessment of different funding options: 5

“(iii) An appropriate debt to equity ratio:

“(iv) How any surplus from the previous financial year is proposed to be applied, or any deficit from the previous financial year is proposed to be managed: 10

“(m) Must, in preparing its draft statement of corporate intent under section 594s,—

“(i) Consider any written submissions made by shareholders on the asset management plan prepared under **paragraph (k)** or the funding plan prepared under **paragraph (l)** within 40 working days of the supply of that plan; and 15

“(ii) Include in that draft statement of corporate intent a summary of its proposals in respect of the matters dealt with in the plans referred to in **subparagraph (i)**: 20

“(n) Must deliver to the Auckland Regional Council a copy of its draft statement of corporate intent at the same time as it provides its draft statement of corporate intent to its shareholders under section 594s: 25

“(o) Must—

“(i) Consider any comments on the draft statement of corporate intent that are made to it within 1 month after the delivery of the draft statement of corporate intent under **paragraph (n)** by the Auckland Regional Council; and 30

“(ii) Include in the statement of corporate intent completed under section 594U its decisions in respect of the matters dealt with in the plans referred to in **paragraph (m) (i)**: 35

“(p) Must give written notice to all shareholders of any proposed modifications of its then current statement of corporate intent and consider comments on the proposed modifications made by any of them. 40

“(2) Nothing in **subsection (1) (c) or (d)** limits the right of any person who is both a customer and a shareholder to participate in any surplus returned to customers pursuant to **subsection (1) (d)**.

“(3) Watercare Services Limited is deemed to be a local authority for the purposes of Parts I to VI and Part VIII of the Local Government Official Information and Meetings Act 1987.

5 “(4) Parts I to VI and Part VIII of the Local Government Official Information and Meetings Act 1987 apply, for the purposes of **subsection (3)**, with all necessary modifications and as if—

10 “(a) Every reference to a local authority were a reference to Watercare Services Limited; and

“(b) Every reference to a member of a local authority were a reference to a director of Watercare Services Limited; and

15 “(c) Every reference to the principal administrative officer of a local authority were a reference to the chief executive of Watercare Services Limited.

“(5) Notwithstanding section 594ZP, a shareholder may give a guarantee, indemnity, or security in respect of the performance of any obligation by Watercare Services Limited.

20 “*Dissolution of Regional Treasury Management Limited*

“707ZZP. **Dissolution of Regional Treasury Management Limited**—(1) Regional Treasury Management Limited is dissolved as from the commencement of 1 October 1998.

25 “(2) On 1 October 1998,—

“(a) All assets and liabilities of Regional Treasury Management Limited become assets and liabilities of Infrastructure Auckland:

30 “(b) All money payable to Regional Treasury Management Limited becomes payable to Infrastructure Auckland:

“(c) All proceedings pending by or against Regional Treasury Management Limited may be carried on, completed, or enforced by or against Infrastructure Auckland.

35 “(3) On 1 October 1998, all property, real and personal, vested in the Auckland Regional Services Trust as at the close of 30 September 1998, vests in Infrastructure Auckland, subject to all existing encumbrances.

40 “707ZZQ. **Final accounts of Regional Treasury Management Limited**—(1) As soon as reasonably practicable after the commencement of 1 October 1998, Infrastructure Auckland must cause to be prepared the final accounts of

Regional Treasury Management Limited as at the close of 30 September 1998.

“(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be sent by Infrastructure Auckland to the Minister. 5

“(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, must be presented to the House of Representatives by the Minister as soon as practicable after their receipt by the Minister.

“Miscellaneous Provisions 10

“707ZZZR. **Certain matters not affected by this Part**— Nothing effected or authorised by any provision of this Part—

“(a) Is to be regarded as placing any local authority, or any other person, in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or 15

“(b) Is to be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or 20

“(c) Is to be regarded as placing any local authority or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or 25

“(d) Is to release any surety wholly or in part from any obligation; or

“(e) Is to validate or discharge any contract or security.

“707ZZZS. **Provisions relating to vesting of assets and liabilities in Infrastructure Auckland**—(1) Where any assets or liabilities are vested in Infrastructure Auckland by any provision of this Part, all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices, (whether or not in writing) relating to the assets or liabilities and entered into by, made with, given to or by, or addressed to the Auckland Regional Services Trust (whether alone or with any other person) subsisting immediately before the vesting of such assets or liabilities by that provision are, to the extent that they were previously binding on and enforceable by, against, or in favour of the Auckland Regional Services Trust, binding on and enforceable by, against, or in favour of Infrastructure Auckland, as fully and effectually in every respect as if, instead of the Auckland Regional Services 30 35 40

Trust, Infrastructure Auckland had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed, as the case may be.

5 “(2) An instrument, contract, agreement, conveyance, deed, lease, licence, or other instrument or undertaking or notice is, in cases of doubt, to be deemed, for the purposes of **subsection (1)**, to be related to the assets or liabilities if it is acknowledged by both the Auckland Regional Services Trust and Infrastructure Auckland as being so related.

10 “707zzzt. **Registers**—(1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers is obliged solely by reason of any provision of this Part to change the name of the Auckland Regional Services Trust to that of Infrastructure Auckland in
15 those books or registers or in any document.

“(2) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by Infrastructure Auckland,—

20 “(a) Executed or purporting to be executed by Infrastructure Auckland; and

“(b) Relating to any property held by the Auckland Regional Services Trust; and

25 “(c) Containing a recital that the property has become vested in Infrastructure Auckland by virtue of any provision of this Part—

is, in the absence of proof to the contrary, sufficient evidence that the property is vested in Infrastructure Auckland.

“(3) Except as provided in this section, nothing in this Act derogates from the provisions of the Land Transfer Act 1952.

30 “*Transitional Provisions*

“707zzzu. **Initial membership of Infrastructure Auckland**—(1) Infrastructure Auckland consists, in the period beginning on 1 October 1998 and ending with 30 June 1999, of 9 members.

35 “(2) Those 9 members comprise—

“(a) Every person who, on 30 September 1998, holds office as a member of the Auckland Regional Services Trust; and

40 “(b) Such other members as are appointed by the Electoral College.

“(3) The number of members appointed under **subsection (2) (b)** is such number as is required to make the number of members of Infrastructure Auckland up to 9.

“(4) Every person who holds office as a member of Infrastructure Auckland under **subsection (2)** is to hold office for a term of 9 months expiring with the close of 30 June 1999 unless he or she sooner vacates office under **subsection (5) or section 707zzx**.

5

“(5) Any member who holds office under **subsection (2)** may at any time be removed from office by the Electoral College for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Electoral College.

10

“707zzzv. **Membership of Infrastructure Auckland in period beginning on 1 July 1999 and ending with 31 December 1999**—(1) Infrastructure Auckland consists, in the period beginning on 1 July 1999 and ending with the close of 31 December 1999, of 7 members.

15

“(2) Those 7 members comprise—

“(a) Every person who, on 30 June 1999, holds office as a member of Infrastructure Auckland under **section 707zzu (2) (b)**; and

“(b) Such of the persons who, on 30 June 1999, hold office as members of Infrastructure Auckland under **section 707zzu (2) (a)** as are reappointed, in accordance with **subsection (3)**, by the Electoral College; and

20

“(c) Such other member or members as are appointed by the Electoral College.

25

“(3) The Electoral College must reappoint, under **subsection (2) (b)**, 3 of the persons referred to in that paragraph unless those persons number, on 30 June 1999, less than 3, in which case the Electoral College must appoint all of those persons.

30

“(4) The number of persons appointed under **subsection (2) (c)** is such number as is required to make the number of members of Infrastructure Auckland up to 7.

“(5) Every person who holds office as a member of Infrastructure Auckland under **subsection (2)** is to hold office for a term of 6 months expiring with the close of 31 December 1999 unless he or she sooner vacates office under **subsection (6) or section 707zzx**.

35

“(6) Any member who holds office under **subsection (2)** may at any time be removed from office by the Electoral College for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Electoral College.

40

5 “707zzzw. **Membership of Infrastructure Auckland in period beginning on 1 January 2000 and ending with 30 June 2001**—(1) Infrastructure Auckland consists, in the period beginning on 1 January 2000 and ending with the close of 30 June 2001, of 7 members.

 “(2) Those 7 members comprise—

 “(a) Every person who, on 31 December 1999, holds office as a member of Infrastructure Auckland under **section 707zzzv (2) (a)** or **section 707zzzv (2) (c)**; and

10 “(b) Such other members as are appointed by the Electoral College.

 “(3) The number of persons appointed under **subsection (2) (b)** is such number as is required to make the number of members of Infrastructure Auckland up to 7.

15 “(4) Every person who holds office as a member of Infrastructure Auckland under **subsection (2)** is to hold office for a term of 18 months expiring with the close of 30 June 2001 unless he or she sooner vacates office under **subsection (5)** or **section 707zzzx**.

20 “(5) Any member who holds office under **subsection (2)** may at any time be removed from office by the Electoral College for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Electoral College.

25 “707zzzx. **Power to resign**—Any member who holds office under **section 707zzzu (2)** or **section 707zzzv (2)** or **section 707zzzw (2)** may at any time resign the office of member of Infrastructure Auckland by notice in writing to the Electoral College.

30 “707zzzy. **Extraordinary vacancies**—(1) Where a member of Infrastructure Auckland vacates his or her office as a member of Infrastructure Auckland at any time in the period beginning on 1 October 1998 and ending with the close of 30 June 2001, the Electoral College must forthwith fill the vacancy by appointing some qualified person as a member of
35 Infrastructure Auckland in the place of the vacating member and must forthwith give public notice of that appointment.

 “(2) Any member appointed under **subsection (1)** holds office only for the unexpired portion of the term of office of his or her predecessor.

40 “(3) If his or her predecessor was holding office under **section 707zzzu (2) (a)**, the member appointed under **subsection (1)** is deemed, for the purposes of **section 707zzzv (2) (a)**, to hold office under **section 707zzzu (2) (b)**.

“(4) If his or her predecessor was holding office under **section 707zzzv (2) (b)**, the member appointed under **subsection (1)** is deemed, for the purposes of **section 707zzw (2) (a)**, to hold office under **section 707zzv (2) (c)**.

“**707zzzz. Chairperson of Infrastructure Auckland—** 5
Notwithstanding **sections 707zzzu and 707zzv and clause 3 of Schedule 17B**, the member of the Auckland Regional Services Trust who, on 30 September 1998, holds office as the chairperson of the Auckland Regional Services Trust, becomes, on 1 October 1998, the chairperson of Infrastructure Auckland and holds 10
office as that chairperson for a term of 15 months expiring with the close of 31 December 1999, unless that chairperson sooner resigns that office or vacates office as a member of Infrastructure Auckland under **section 707zzzu (5) or section 707zzv (6) or section 707zzx.**” 15

9. New Schedule 17B inserted—(1) The principal Act is amended by inserting, after Schedule 17A (as inserted by section 76 of the Local Government Amendment Act 1992), the **Schedule 17B** set out in the Schedule.

(2) This section, and the Schedule of this Act, come into force 20
on 1 October 1998.

Amendments to Ombudsmen Act 1975

10. First Schedule amended—(1) Part III of the First Schedule of the Ombudsmen Act 1975 is amended by omitting the item relating to the Auckland Regional Services Trust (as 25
inserted by section 79 (1) of the Local Government Amendment Act 1992).

(2) Part III of the First Schedule of the Ombudsmen Act 1975 is amended by inserting, after the item relating to hospital boards, the following item “Infrastructure Auckland”. 30

(3) Section 79 of the Local Government Amendment Act 1992 and the heading above that section are consequentially repealed.

(4) This section comes into force on 1 October 1998.

Amendment to Transit New Zealand Act 1989 35

11. Grants from Infrastructure Auckland—(1) The Transit New Zealand Act 1989 is amended by inserting, after section 104, the following section:

“104A. (1) Notwithstanding any other provision of this Act or any provision of any other Act, for the purpose of obtaining 40
funding for a project or part of a project that—

- “(a) Consists primarily of roading; and
- “(b) Is a capital project within the meaning of any of the provisions of subparagraphs (ii) to (iv) of paragraph (b) of the definition of the term ‘capital project’; and
- 5 “(c) Is carried out by the Authority in the region in respect of which the Auckland Regional Council is constituted,—
- the Authority may, in accordance with **Part XLIVc** of the Local
- 10 Government Act 1974, apply for, and obtain and expend, a grant from Infrastructure Auckland.
- “(2) Money received by the Authority by way of grant from Infrastructure Auckland—
- “(a) Is not ‘roading revenue’ within the meaning of section 8; and
- 15 “(b) Is money that may be paid into the State Highways Account (even though it is not money that is required by section 20 (3) to be paid into that account); and
- 20 “(c) Is money that may be applied only for the purpose for which that money is granted.
- “(3) No money paid into the State Highways Account under **subsection (2) (b)** may, under **subsection (2) (c)**, be paid, in accordance with **Part XLIVc**, for the purpose in respect of which it is granted
- 25 unless the price of the project in respect of which it is to be paid has been determined by an applicable competitive pricing procedure approved by the Board under section 26, and no such money may be paid to any local authority.
- “(4) Nothing in this section requires the Authority to obtain
- 30 the approval of the Board for expenditure under this section.”
- (2) This section comes into force on 1 October 1998.

Amendment to Income Tax Act 1994

- 12. Definitions**—(1) In section OB 1 of the Income Tax Act 1994, the definition of the term “local authority”, is replaced
- 35 by the following definition:
- “ ‘Local authority’ means a local authority named in, or a local authority of any of the classes specified in, the First Schedule to the Local Government Act 1974; and includes Infrastructure Auckland as defined in
- 40 **section 707zi** of that Act.”
- (2) This section comes into force on 1 October 1998.

Repeals, Consequential Amendment, and Revocations

- 13. Repeals**—(1) The following enactments are repealed:
- (a) Schedule 17A of the principal Act (as added by section 76 of the Local Government Amendment Act 1992):
 - (b) Section 101G (1)(d) of the principal Act (as enacted by section 11 (1) of the Local Government Amendment Act 1992): 5
 - (c) Section 225B (2) of the principal Act (as enacted by section 28 of the Local Government Amendment Act 1992):
 - (d) Subsections (3)(b) and (4) of section 619A of the principal Act (as enacted by section 61 of the Local Government Amendment Act 1992): 10
 - (e) Part XLIVB of the principal Act (as inserted by section 68 (1) of the Local Government Amendment Act 1992): 15
 - (f) Sections 68 and 76 of the Local Government Amendment Act 1992:
 - (g) Sections 9 to 13 of the Local Government Amendment Act (No. 2) 1992:
 - (h) The Local Government Amendment Act (No. 4) 1992: 20
 - (i) Section 17 of the Local Government Amendment Act 1994:
 - (j) So much of Schedule 20 of the Income Tax Act 1994 as relates to sections 707w (1) and 707zk (1) (h) of the principal Act (as inserted by section 68 of the Local Government Amendment Act 1992): 25
 - (k) Section 6 of the Local Government Amendment Act (No. 2) 1995:
 - (l) The Local Government Amendment Act 1996:
 - (m) The Local Government Amendment Act (No. 2) 1996: 30
 - (n) So much of the First Schedule of the Local Government Amendment Act (No. 3) 1996 as relates to section 707zk of the principal Act (as enacted by section 68 of the Local Government Amendment Act 1992).
 - (2) This section comes into force on 1 October 1998. 35
- 14. Application of provisions to Auckland Regional Council**—(1) Section 707A of the principal Act (as substituted by section 67 (1) of the Local Government Amendment Act 1992) is amended by omitting from subsection (2) the expression “Part XLIVB”, and substituting the expression “Part XLIVc”. 40
- (2) This section comes into force on 1 October 1998.

15. Revocations—(1) The following determination and order are revoked:

- 5 (a) The Local Government (Auckland Regional Services Trust Salaries and Allowances) Determination 1996 (S.R. 1996/319);
- (b) The Local Government (Watercare Services Limited) Order 1997 (S.R. 1997/103).
- (2) This section comes into force on 1 October 1998.
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Section 9**SCHEDULE**

NEW SCHEDULE 17B OF PRINCIPAL ACT

Section 707zz

"SCHEDULE 17B

"PROVISIONS RELATING TO INFRASTRUCTURE AUCKLAND

1. Extraordinary vacancies—(1) Any member of Infrastructure Auckland may at any time be removed from office by the Electoral College for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Electoral College.

(2) Any member of Infrastructure Auckland may at any time resign his or her office by writing addressed to the Electoral College.

(3) If any member of Infrastructure Auckland dies, or resigns, or is removed from office or ceases to hold any qualification necessary for his or her appointment to office as a member of Infrastructure Auckland, his or her office becomes vacant and the vacancy is deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy must be filled in the manner in which the appointment to the vacant office was originally made.

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

2. Committees—(1) Infrastructure Auckland may from time to time appoint, discharge, alter, or continue, or reconstitute committees comprising 2 or more members of Infrastructure Auckland, of whom 1 must be appointed as the chairperson of the committee.

(2) Infrastructure Auckland may refer to any committee appointed by it under this clause any matter relevant to the performance of its functions, and may delegate to any such committee any of the functions, powers, or duties conferred or imposed upon Infrastructure Auckland by this Act or any other enactment, except the power to delegate any function, duty, or power.

(3) Subject to any general or special directions given or conditions attached by Infrastructure Auckland, any functions, power, or duties delegated to a committee may be performed and exercised by the committee with the same effect as if those functions, power, or duties had been directly conferred or imposed and not by delegation.

(4) Every committee purporting to act under any delegation under this clause is presumed, in the absence of proof to the contrary, to be acting in accordance with the terms of the delegation.

(5) Every delegation under this clause is revocable at will, and no delegation prevents the performance or exercise of any function, duty, or power by Infrastructure Auckland.

(6) Until any delegation under this clause is revoked, it continues in force, notwithstanding any change in the membership of Infrastructure Auckland or of the committee.

3. Chairperson—(1) The Electoral College must appoint 1 of the members of Infrastructure Auckland to be the chairperson of Infrastructure Auckland.

(2) The chairperson holds office as such until the chairperson's successor is appointed or the chairperson sooner ceases to be a member of Infrastructure Auckland.

SCHEDULE—*continued*

NEW SCHEDULE 17B OF PRINCIPAL ACT—*continued*

“SCHEDULE 17B—*continued*

“PROVISIONS RELATING TO INFRASTRUCTURE AUCKLAND—*continued*

(3) If a vacancy occurs in the office of chairperson, the Electoral College must, at its first meeting after the vacancy occurs, elect some other member of Infrastructure Auckland to be chairperson.

4. Meetings—(1) Meetings of Infrastructure Auckland or any committee appointed by it, are to be held at such times and places as Infrastructure Auckland or its chairperson or the committee or its chairperson, as the case may be, appoints.

(2) At every meeting of Infrastructure Auckland or any committee appointed by it the quorum is half of the members.

(3) At all meetings of either Infrastructure Auckland or a committee of Infrastructure Auckland the presiding member must be, respectively, the chairperson of Infrastructure Auckland or the chairperson of the committee if he or she is present. If he or she is not present, the members present must elect 1 of their number to preside at the meeting, and the member presiding has all the powers of the chairperson for the purpose of that meeting.

(4) Every question before Infrastructure Auckland or any committee is to be determined by a majority of the votes of the members present at the meeting.

(5) The presiding member has a deliberative vote, and, in any case where there are more than 2 members voting and there is an equality of votes, also has a casting vote.

(6) Subject to this Act and, in the case of a committee, subject to any directions by Infrastructure Auckland, Infrastructure Auckland and any committee may regulate their procedures in such manner as they think fit.

5. Employees—(1) Subject to this clause, Infrastructure Auckland may from time to time appoint a person to be the chief executive of Infrastructure Auckland and may appoint a temporary chief executive during the temporary absence of the chief executive.

(2) No person may be employed by Infrastructure Auckland while that person is a member of Infrastructure Auckland or a member or employee of any local authority.

(3) Subject to [section 707ZM \(2\)](#), the chief executive may from time to time appoint such employees (including employees on secondment from other organisations and acting, temporary, or casual employees) as the chief executive thinks necessary for the efficient performance and exercise of the functions and powers of Infrastructure Auckland.

(4) Infrastructure Auckland may at any time terminate or suspend the employment of the chief executive and the chief executive may terminate or suspend the employment of any employee appointed under [subclause \(3\)](#) by the chief executive.

(5) The employees of Infrastructure Auckland are to be employed on such terms and conditions of employment and are to be paid such salaries and allowances as, in the case of the chief executive or any temporary chief executive, Infrastructure Auckland from time to time determines, and as, in

SCHEDULE—*continued*NEW SCHEDULE 17B OF PRINCIPAL ACT—*continued*“SCHEDULE 17B—*continued*“PROVISIONS RELATING TO INFRASTRUCTURE AUCKLAND—*continued*

any other case, the chief executive or temporary chief executive from time to time determines.

(6) Any determination under **subclause (4)** takes effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination, or, if no date is so specified, on the date of determination.

6. Specialist advice—Infrastructure Auckland may invite any person or body who or which, in the opinion of Infrastructure Auckland, has specialist knowledge that is likely to be of assistance to Infrastructure Auckland to attend any meeting or discussion held by Infrastructure Auckland and to taken part in the proceedings.

Cf. 1974, No. 66, Schedule 3A, cl. 5

7. Consultants—(1) Infrastructure Auckland may engage such consultants as it thinks necessary or desirable to assist it to carry out its functions.

(2) Infrastructure Auckland may pay to any person engaged under **subclause (1)**, for services rendered by that person, such fees or commissions or both as it thinks fit, and may reimburse any such person for expenses reasonably incurred in rendering services to Infrastructure Auckland.

8. Investment of money—Any money which belongs to Infrastructure Auckland and which is not immediately required by Infrastructure Auckland may be invested—

- (a) On deposit with any bank which is operating in New Zealand and which is a bank within the meaning of the Public Finance Act 1989; or
- (b) In public securities within the meaning of the Public Finance Act 1989.”