

Hon. Mr. Parry

## LOCAL GOVERNMENT COMMISSION

### ANALYSIS

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### A BILL INTITULED

AN ACT to make Provision for the Review and title.  
Reorganization of the Districts and Functions of  
Local Authorities.

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

Short Title.

1. This Act may be cited as the Local Government Commission Act, 1946. 5

Interpretation.

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

“ Association ” means the Municipal Association of New Zealand, Incorporated, the New Zealand Counties Association, the New Zealand Drainage and River Boards Association, the Electric-power Boards and Supply Authorities Association of New Zealand, the New Zealand Fire Boards Association, the Harbours Association of New Zealand, the Hospital Boards’ Association of New Zealand, the North Island Rabbit Boards Association, the South Island Rabbit Boards Association, and such other bodies as are from time to time declared by the Governor-General by Order in Council to be Associations for the purposes of this Act: 10 15 20

“ Commission ” means the Local Government Commission established under this Act:

“ District ” means the district of a local authority: 25

“ Local authority ” means a County Council, Borough Council, Town Board, Road Board, River Board, Drainage Board, Catchment Board, Milk Authority, Electric-power Board, Water-supply Board, Fire Board, Harbour Board, Hospital Board, Rabbit Board, Tramway Board, Transport Board, and such other local authorities or public bodies as are from time to time declared by the Governor-General by Order in Council to be local authorities for the purposes of this Act: 30 35

“ Minister ” means the Minister of Internal Affairs:

“ Nominating Association ” means an Association that is for the time being declared by the Governor-General to be a nominating Association for the purposes of this Act: 40

“ Scheme ” means a reorganization scheme as provided for in this Act.

Local Government Commission

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

Local  
Government  
Commission.

5 (2) The Commission shall consist of ~~three~~ four members to be appointed by the Governor-General in Council on the recommendation of the Minister, of whom—

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

(b) One member shall be appointed as a person having special knowledge of local government:

15 (c) ~~One member~~ Two members shall be appointed from a panel of persons nominated by the nominating Associations, each of which Associations may from time to time nominate one person for that panel.

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20 One of the persons appointed under this paragraph shall be a person having special knowledge of urban local government, and the other shall be a person having special knowledge of rural local government.

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

4. (1) No person shall be eligible for appointment as the Chairman of the Commission unless he is eligible for appointment as a Judge of the Supreme Court.

Appointment  
of Chairman.

30 (2) So long as the Commission continues in existence, the Chairman so appointed shall, as to tenure of office, salary, emoluments, and privileges, have the same rights and be subject to the same provisions as a Judge of the Supreme Court.

35 (3) This Act shall be deemed to be a permanent appropriation of the salary of the Chairman of the Commission.

40 (4) Notwithstanding anything in the foregoing provisions of this section, the Governor-General may from time to time appoint a Judge of the Supreme Court to be the Chairman of the Commission, and in that case the Judge so appointed shall hold both offices concurrently.

45 (5) If and so long as a Judge of the Supreme Court holds office as the Chairman of the Commission he shall be deemed to be absent from his office as a

See Reprint  
of Statutes,  
Vol. II, p. 63

Judge, and a Judge may be appointed in his stead, pursuant to section eleven of the Judicature Act, 1908, to hold office during the pleasure of the Governor-General:

Provided that nothing herein shall be construed to deprive the Chairman of the Commission, in any such case, of power to exercise any jurisdiction as a Judge of the Supreme Court.

Term of  
office of  
other members  
of Commission.

5. (1) Except as otherwise provided in this Act, every member of the Commission other than the Chairman shall be appointed for such term, not exceeding three years, as the Governor-General in Council thinks fit, and may from time to time be reappointed.

(2) Notwithstanding anything to the contrary in this Act, every such member of the Commission, unless he sooner vacates his office, shall continue to hold office until his successor comes into office.

Oath to be  
taken by  
members of  
Commission.

6. Before entering upon the exercise of the duties of their office the members of the Commission (not including the Chairman if he is a Judge of the Supreme Court) shall take and subscribe an oath before a Judge of the Supreme Court that they will faithfully and impartially perform the duties of their office.

Extraordinary  
vacancies.

7. (1) Any member of the Commission other than the Chairman may at any time be removed from office by the Governor-General in Council for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General in Council, or may at any time resign his office by writing addressed to the Minister.

(2) If any such member of the Commission dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of any extraordinary vacancy the Governor-General in Council may appoint some qualified person to be a member of the Commission for the residue of the term for which the vacating member was appointed. Every such appointment shall be made in the same manner as the appointment of the vacating member.

Deputies of  
members.

8. (1) In any case in which the Governor-General in Council is satisfied that any member of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office,

the Governor-General in Council may, in the manner in which that member was appointed, appoint a qualified person to be a deputy to act for the member during his incapacity, and any such deputy shall, while he acts as such, be deemed to be a member of the Commission and (if he is the deputy of the Chairman) to be the Chairman of the Commission.

(2) No such appointment of a deputy and no acts done by a deputy as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

9. (1) Meetings of the Commission shall be held at such times and places as the Commission or the Chairman thereof from time to time appoints.

Meetings of Commission.

(2) At all meetings of the Commission the Chairman and ~~one other member~~ two other members shall form a quorum.

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

(4) Subject to the provisions of this Act and of any regulations made under this Act, the Commission may regulate its procedure in such manner as it thinks fit.

10. (1) The Commission shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908, and, subject to the provisions of this Act and of any regulations made under this Act, all the provisions of that Act shall apply accordingly.

Commission to be a Commission of Inquiry. See Reprint of Statutes, Vol. I, p. 1036

(2) The Chairman of the Commission, or any other member or the Secretary of the Commission purporting to act by direction or with the authority of the Chairman, may issue summonses requiring the attendance of witnesses before the Commission, or the production of documents, or may do any other act preliminary or incidental to the hearing of any matter by the Commission.

11. (1) The Commission may from time to time appoint such person or persons as it thinks fit (whether or not they are members or officers of the Commission) to investigate and report to the Commission on such matters as are referred to them by the Commission.

Commission may refer matters for investigation.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding *twenty* pounds who, having the custody or possession of any books, papers, accounts, or documents, refuses or fails to allow to have access thereto any person investigating any matter under this section, or who obstructs any such person in the making of the investigation. 5

Functions of Commission.

12. The functions of the Commission shall be to review from time to time the functions and districts of local authorities and to inquire into proposals and prepare schemes for the reorganization thereof, and generally to review and to report to the Minister upon such matters relating to local government as may be determined by the Commission or referred to it by the Minister. 10 15

#### *Schemes for Reorganization*

Matters to be provided for in reorganization schemes.

13. (1) A reorganization scheme under this Act may provide for one or more of the following matters:—

(a) The union into one district of two or more adjoining districts, whether districts of the same kind or not: 20

(b) The merger of any district in any other district:

(c) The constitution of a new district or districts:

(d) The abolition of any district or districts:

(e) The transfer of all or any of the functions of any local authority to any other local authority: 25

(f) Any alteration of the boundaries of adjoining districts:

(g) The conversion of a district into a district of a different kind. 30

(2) A scheme providing for any of the aforesaid matters may also provide for any other matters that may be declared by the Governor-General by Order in Council to be appropriate to such a scheme, and may also provide for any matters incidental to the scheme. 35

(3) The Governor-General may by Order in Council declare that any two or more districts shall be deemed to be adjoining districts for the purposes of this Act, notwithstanding that those districts may be separated by a road, or by any river, harbour, arm of the sea, or other natural feature. 40

14. The Commission may from time to time, of its own motion or at the request of the Minister or of any local authority, hold a public inquiry as to whether a reorganization scheme should be prepared in respect of any district or districts, and, if so, as to the matters to be provided for in the scheme.

Commission may hold public inquiry into proposals for a scheme.

15. (1) Not less than one month before it commences any such inquiry the Commission shall give public notice thereof. Every such notice shall state that representations on the matters to be inquired into may be made by any person either in writing or at the inquiry.

Notice of inquiry.

(2) The Commission shall also give notice of the inquiry to the Minister, to the local authority of every district likely in the opinion of the Commission to be affected by the inquiry, and to every person or body having statutory authority to make decisions or recommendations in respect of the union, merger, constitution, or alteration of any of those districts:

20 Provided that the failure to give notice to any such person or body shall not affect the validity of any scheme prepared as a result of the inquiry.

16. (1) After completing any public inquiry the Commission may, if it thinks fit, prepare a provisional reorganization scheme providing for all or any of the matters inquired into.

Provisional scheme may be prepared and publicly notified by Commission.

(2) As soon as a provisional scheme has been approved by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected and of the right of objection hereinafter provided for, and shall also give notice thereof to the persons and bodies referred to in subsection *two* of the *last preceding* section.

17. (1) Any party to the inquiry as a result of which any provisional scheme is prepared, and any other person or body interested, shall have a right of objection to the scheme, and may give notice in writing to the Commission of the objection and of the grounds thereof at any time within one month after the first public notification of the scheme, or within such further time as may in any case be allowed by the Commission.

Objections to provisional scheme.

(2) The Commission shall as soon as practicable consider all such objections, and may, if it thinks fit, hold a further public inquiry for that purpose.

(3) On the determination of any such objection the Commission may uphold the objection wholly or partly, and may abandon or modify the scheme accordingly, or may dismiss the objection.

Final scheme.

18. After all objections to any provisional scheme have been disposed of the Commission may finally approve the scheme, which shall then become a final scheme. 5

Poll of electors required in certain cases.

19. (1) For the purposes of this section the term "local governing district" means any county, borough, or town district, and includes any road district situated in the County of Eden. 10

(2) Where any provisional or final reorganization scheme contains a proposal for the union, merger, or abolition of any local governing district, the Commission may if it thinks fit include in the scheme a recommendation that a poll of the electors of that district should be taken on that proposal. 15

(3) Where any final reorganization scheme contains a proposal for the union, merger, or abolition of any local governing district but does not contain a recommendation that a poll of the electors of that district be taken on that proposal, a request in writing that such a poll be taken, signed by not less than fifteen per centum of the electors of the district, may be delivered to the Returning Officer of the district at any time within one month after the date of the final approval of the scheme by the Commission. 20

(4) Every poll of the electors of any local governing district that is recommended in any final scheme or is requested in accordance with this section shall be taken on a day to be appointed in that behalf by the local authority of the district, being not later than ~~two~~ three months after the date of the final approval of the scheme by the Commission. 25

(5) Every such poll shall be held and taken in the manner provided by the Local Elections and Polls Act, 1925, and, subject to the provisions of this Act, all the provisions of that Act, so far as they are applicable, shall apply accordingly with respect to every such poll. 30

See Reprint of Statutes, Vol. V, p. 447

Effect to be given to final scheme, subject to result of any poll required as aforesaid.

20. Effect shall be given to every final scheme by the Governor-General by Order in Council, or, if the Governor-General so determines, effect shall be given thereto in such manner as may be prescribed by any Act for the time being in force making appropriate provision in that behalf: 35 40 45



Provided that effect shall not be given to any scheme in so far as it relates to any proposal on which a poll of electors is required to be taken or two or more polls are required to be taken as provided in section *nineteen* 5 of this Act ~~unless a majority of the valid votes recorded on that poll or on each of those polls is in favour of the proposal.~~

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10 if at that poll or at any of those polls a majority of the persons entitled to vote cast valid votes and a majority of the valid votes is against the proposal.

21. (1) For the purpose of giving full effect to any provisions of a final scheme, the Governor-General in 15 the Order in Council or other instrument giving effect to the same or in a separate Order in Council may, subject to the provisions of this Act, make such provisions as he deems necessary for the purposes of the district thereby created or altered or for the discharge 20 of the functions of the local authority of the district, or for any other matter rendered necessary through the carrying into effect of the provisions. In particular he may—

Supplementary provisions for giving effect to scheme.

- 25 (a) Determine the nature or constitution of any new district or any new local authority:
- (b) Declare that the union, merger, constitution, abolition, or alteration of boundaries of any district or districts shall be deemed to have 30 been effected under any existing Act that he specifies in that behalf:
- (c) Determine the qualifications for electors or ratepayers of a new district or local authority if different qualifications were previously in 35 force in the respective districts comprising the new district:
- (d) Make such provisions as are necessary with respect to the first or any election of Council- 40 lers or members of any local authority affected by the scheme:
- (e) Make provision for the apportionment or disposition of the assets and liabilities of all or any of the local authorities affected by the 45 scheme:
- (f) Prescribe the date or dates on which the provisions or any of them shall come into force.

(2) In exercising the powers conferred by the *last preceding* subsection the Governor-General may apply

for the purpose, with such modifications as may be necessary or desirable, any provisions of any Act for the time being in force which in his opinion are appropriate to the particular matter.

(3) No Order in Council or other instrument issued for the purpose of giving effect to any scheme shall affect any separate rate or special rate, and every such rate shall continue to be charged upon the whole of the area upon which it was charged before the issue of the instrument, and shall not by reason thereof become a charge upon any additional area; and the area within which any unexpended loan-moneys may be expended shall not be affected by any such instrument. 5 10

Exercise of powers conferred by this Act not affected by provisions of other Acts.

**22.** (1) An Order in Council or other instrument giving effect to any proposal contained in a final scheme may be issued under the authority of this Act, or of any Act applied for the purpose, notwithstanding that the requirements of any Act, other than this Act, as to the particular matter in relation to which the instrument is issued may not have been complied with. 15 20

(2) Any such instrument shall, for all purposes not inconsistent with the provisions of this Act, be deemed to have been issued under the authority of such other Act as is named therein as fully and effectually as if the provisions of that Act precedent to the issue of the instrument had been fully complied with. 25

Powers of local authority on which jurisdiction conferred for purposes of scheme.

**23.** In any case where, pursuant to a final scheme,—

(a) Two or more districts of a different kind are united; or

(b) A district is merged in another district or abolished; or 30

(c) The functions of any local authority are transferred to another local authority,—

the local authority that, pursuant to the scheme, assumes jurisdiction over an area formerly comprising a separate district, or takes over the functions of a previous local authority, shall have and may exercise, subject to any provisions which the Governor-General may, by Order in Council, make to the contrary, all the powers which were previously exercised by the controlling local authority or would have been so exercised by it if it had remained in existence or in control of the area, and shall be subject to the same duties, obligations, and liabilities as were or would similarly have been imposed on that controlling local authority. 35 40 45

Reorganization under other Acts

24. (1) Where a request is made under any enactment other than this Act to the Governor-General or to any local authority or other person, whether by petition or in such other manner as may be prescribed or permissible, asking for any action to be taken for the purpose of or with a view to giving effect to any proposals which could be provided for in a scheme under this Act, the request shall be referred to the Commission, and no such action shall be taken under the enactment unless the Commission so recommends.

Proposals for reorganization to be referred to Commission.

(2) Instead of making any such recommendations in respect of any such proposals the Commission may, in its discretion, either—

- (a) Approve the proposals as a final scheme; or
(b) Approve the proposals as a provisional scheme; or
(c) Hold a public inquiry as to whether a reorganization scheme should be prepared to provide for the matters referred to in the proposals, with or without any other matters,—

and thereupon the appropriate provisions of this Act shall apply accordingly.

Miscellaneous

Struck out

25. (1) For the purposes of any inquiry by the Commission into any matter affecting any local authority that is a member or is eligible to be a member of any Association, unless one of the members of the Commission is that Association's nominee for the panel referred to in section three of this Act or has, in the opinion of the Chairman of the Commission, special knowledge of matters affecting that Association's members, that Association may appoint an assessor.

Assessors.

(2) Any assessor appointed in respect of any inquiry shall be entitled to be present at and to take part in that inquiry as if he were a member of the Commission, but he shall not be entitled to vote and shall not be a party to any decision of the Commission:

Provided that the members of the Commission other than the assessor or assessors may at any time deliberate in private as to the Commission's report or as to any question arising in the course of the inquiry.

*Struck out*

(3) The Commission's powers in relation to any inquiry shall not be affected by any failure to appoint an assessor or by the absence of any assessor.

Remuneration  
and travelling-  
expenses.

**26.** There shall be paid out of moneys appropriated by Parliament for the purpose to the members of the Commission (other than the Chairman), ~~and to assessors appointed under the last preceding section,~~ and to persons investigating any matters under section *eleven* of this Act such remuneration by way of salary, fees, or allowances and such travelling allowances and expenses as may from time to time be prescribed by regulations made under this Act or, in default of or subject to any such regulations, fixed by the Minister of Finance, either generally or in respect of any particular person or persons.

Officers of  
Commission.

**27.** (1) There may from time to time be appointed as officers of the Public Service a Secretary of the Commission and such other officers as may be required for the purposes of this Act.

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

Annual report.

**28.** (1) The Commission shall in the month of April in each year furnish to the Minister a report of its proceedings and operations during the year ended on the last preceding thirty-first day of March.

(2) A copy of the report shall be laid before Parliament.

Regulations.

**29.** (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the intent and purposes of this Act.

(2) All regulations made under this section shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session.