

LOCAL GOVERNMENT LAW REFORM BILL (NO. 2)

EXPLANATORY NOTE

General Policy Statement

This Bill is an omnibus Bill in 3 Parts and makes a number of amendments to legislation relating to operations and activities in the local government area. Approval for the omnibus nature of the Bill was given by the Business Committee of the House of Representatives on 29 June 1999 under Standing Order 259 (c). The Bill will be divided into 3 Bills at the Committee of the Whole stage in the House.

PART 1

DOG CONTROL ACT 1996

The overriding objective of current legislation relating to dangerous dogs is the freedom of the public from the threat of dog attacks. There are also other dogs not classified as dangerous which it is appropriate to consider dangerous solely because of their type or breed.

This Part of the Bill gives territorial authorities the power to identify certain types or breeds of dogs considered to be inherently dangerous as restricted dogs and to apply restrictions on the ownership of restricted dogs presently in the country. These restrictions are designed to achieve the phased elimination of these dogs from New Zealand. The rights of owners of dogs identified as restricted dogs are protected by a right of objection to the territorial authority concerned and a right of appeal to the District Court against the decision of a territorial authority in objection proceedings. The Bill also prohibits the importation of these dogs or their embryos or semen. The provisions of the Customs and Excise Act 1996 apply as if the dogs or their embryos or semen were prohibited goods.

In the interests of efficient administration this Part also enables territorial authorities to delegate their functions, duties, and powers to committees, sub-committees, and other specified officers of the territorial authority.

PART 2

LOCAL GOVERNMENT ACT 1974

This Part contains a new power for local authorities to impose a ban on alcohol in public places on specified days in the year. These specified days have been associated with problems relating to drunken crowds, riotous behaviour, and

damage to property. At present, local authorities may ban alcohol only at public events, functions, or gatherings in public places. The new power is not related to a specific event or function. Accordingly it will allow local authorities to increase public safety and convenience. Before imposing a ban, a local authority must have reasonable grounds to suspect that the presence of alcohol will lead to public disorder, and it must consult with the community on the proposed ban.

This Part also contains a number of miscellaneous amendments to enhance administrative efficiency and to clarify the operation of certain provisions in the current legislation. In particular, there are amendments to:

- Allow members of the Local Government Commission to remain in office until a successor is appointed;
- Provide flexibility for local authorities in the efficient management of sinking funds, while protecting the rights of individual lenders;
- Clarify annual reporting requirements in relation to term liabilities and incidental arrangements;
- Omit references to other sections or enactments that have been repealed.

PART 3

RATING POWERS ACT 1988

Authority is to be provided for regional councils to use area rating to fund functions, including regional pest management strategies, under the Biosecurity Act 1993. This power was inadvertently removed as a result of amendments to that Act in 1996.

Clause by Clause Analysis

Clause 1 provides for a deferred commencement date for the following new sections inserted by *clause 6*: sections 33c, 33h, 33i, 33j, and 33k. These sections are to come into force on a date to be appointed by the Governor-General by Order in Council. The deferred commencement is to allow sufficient time for amendments to be made to the animal health certificate required when importing a dog, embryo or semen and the establishment of advisory panels.

PART 1

DOG CONTROL ACT 1996

Clause 3 inserts a new *section 3A* into the principal Act. This new section allows the Governor-General, by Order in Council, to add new types or breeds of dog to the *Fourth Schedule* (inserted into the principal Act by *clause 6*) and to otherwise amend that schedule.

Clause 4 amends section 4 of the principal Act to include, as one of the objects of the Act, the making of special provisions for the care and control of restricted dogs.

Clause 5 inserts into the principal Act a new *section 6A* allowing territorial authorities to delegate their functions, duties, and powers to committees, sub-committees, dog control officers, and dog rangers.

Clause 6 inserts new *sections 33A to 33j* into the principal Act.

New *section 33A* provides that the types and breeds of dog listed and described in the *Fourth Schedule* are restricted classes of dog.

New *section 33B* requires territorial authorities to identify all restricted dogs in their areas and to give notice to each owner that a dog has been identified as a restricted dog.

New *section 33c* provides that a dog is a restricted dog if the territorial authority or an advisory panel believes that the dog fits into any one of 3 categories. A dog

is a restricted dog if it fits the description of a restricted class of dog set out in the *Fourth Schedule*, or if it displays the characteristics of a mixture of 2 or more restricted classes of dog, or if it is substantially like a dog that is covered by either of those categories.

New *section 33D* provides a process for owners of dogs identified as restricted dogs to object to the identification.

New *section 33E* grants a right of appeal to the District Court if the person objecting to the identification under *section 33D* is not satisfied with the territorial authority's decision on the objection.

New *section 33F* sets out the effects on the owner of a dog of its identification as a restricted dog. The section also creates 2 offences of failing to comply with any requirements and selling or transferring a dog to a person without advising that person that the dog is a restricted dog.

New *section 33G* prohibits the importation of restricted dogs, or the embryo and semen of restricted dogs.

New *section 33H* provides that the provisions of the Customs and Excise Act 1996 that apply to prohibited imports apply to restricted dogs and the embryo and semen of those dogs.

New *section 33I* requires a Customs officer to advise the Chief Executive of the New Zealand Customs Service if a question arises as to whether a dog is a restricted dog or any embryo or semen is that of a restricted dog who must refer the question to an advisory panel.

New *section 33J* requires the chief executive of the New Zealand Customs Service to convene an advisory panel when there is a dispute as to whether a dog is a restricted dog or whether embryos or semen come from a restricted dog.

New *section 33K* provides that an advisory panel must determine whether a dog is a restricted dog or whether the embryo or semen comes from a restricted dog and give notice of its determination to the person who imported the dog or embryos or semen.

Clause 7 amends *section 57 (3)* of the principal Act. This amendment corrects an oversight by providing that dog rangers are not authorised to enter a dwellinghouse except in certain specified situations. This prohibition already applies to dog control officers and constables.

Clause 8 repeals *section 62* of the principal Act and substitutes a new *section 62*. The new section extends to restricted dogs the provision making it an offence to allow a dangerous dog to be at large unmuzzled.

Clause 9 amends *section 78* of the principal Act by repealing subsections (1)(c), (2), and (3). These provisions allow for the making of regulations to regulate or prohibit the keeping or possession of specified types, cross-breeds, and breeds of dog. As a consequence of the amendments described above, these regulation-making powers are no longer required.

Clause 10 adds a *Fourth Schedule* which lists and describes the types and breeds of dog that are restricted classes of dog.

PART 2

LOCAL GOVERNMENT ACT 1974

Clause 12 adds a new *subsection (3)* to *section 37Z* of the principal Act which provides for the term of office of the members of the Local Government Commission. The new subsection provides that a member of the Commission who is in office at the end of his or her term of appointment continues to hold office until certain circumstances occur, eg the member's successor is appointed

or the member is informed in writing by the Minister that he or she is not to be reappointed.

Clause 13 amends section 122ZR of the principal Act which relates to sinking funds.

Subclause (1) makes a technical amendment to section 122ZR (1).

Subclauses (2) and (3) make amendments to permit the release to the local authority of amounts in the sinking fund with the consent of only some creditors if the sinking fund is sufficient to repay the balance of the loan on maturity in respect of amounts owed to creditors who do not consent.

Clause 14 amends section 223E (3) of the principal Act which prescribes the content of financial statements to be included in a local authority's annual report. The amendment omits words from paragraph (h) so that it simply requires the inclusion of a summary of the term liabilities and incidental arrangements of the local authority.

Clauses 15 to 17 amend sections 459 (6), 514 (3), and 558 (1) of the principal Act to omit references to an already repealed section of the principal Act.

Clause 18 amends section 594B (2) of the principal Act consequential on the enactment of the Local Government Amendment Act 1999.

Clause 19 amends section 674 (3) of the principal Act to omit reference to an already repealed section of the principal Act.

Clause 20 makes a number of amendments to section 709A of the principal Act. That section permits a council to prohibit certain things in a specified public place on the occasion of any public event, function, or gathering. The council may prohibit either or both of the following:

- The use of ordinary vehicular traffic.
- The consumption of liquor, the bringing of liquor or empty liquor containers into the specified public place, and the possession of liquor or empty liquor containers.

The amendments—

- Omit references to empty liquor containers.
- Permit the police to search any vehicle in, entering, or about to enter a specified public place, for the purpose of ascertaining whether or not the vehicle contains liquor.
- Extend to vehicles the provision requiring the police to provide an opportunity to remove items from a specified public place before exercising the power of search.
- Extend to vehicles the provision prohibiting the police from exercising the power of search if a person removes items from a specified public place or refrains from taking them into a specified public place.
- Permit the police to seize any container (not just a liquor container) as evidence of an offence against section 709A.

Clause 21 inserts new sections 709B to 709H to confer additional powers on councils to prohibit vehicles and liquor in public places. The new sections are modelled on the provisions of section 709A of the principal Act (as amended by *clause 20*), but with the following major differences:

- The power to prohibit vehicles or liquor is not limited to events, functions, or gatherings, but can be exercised in respect of specified days which are defined to mean certain days of the year.
- The power to prohibit vehicles or liquor may be exercised only if a council—

- (a) Is satisfied on reasonable grounds that liquor will be present in a public place on a specified day, and the presence of liquor is likely to lead to a number of offences against certain sections of the Summary Offences Act 1981 relating to disorderly or offensive behaviour in a public place; and
- (b) Has used the specified consultative procedure in section 716A of the principal Act.

New *section 709B* contains definitions. The term “specified day” is defined to mean any of the following days:

- Waitangi Day;
- The seventh of February;
- A day in the period beginning on Good Friday and ending on the close of the following Easter Monday;
- The fifth of November;
- The sixth of November;
- A day in the period beginning on 24 December and ending on the close of 2 January in the following year.

New *section 709C* contains the additional power to prohibit vehicles and liquor in public places on specified days, including the preconditions mentioned above.

New *sections 709D and 709E* provide exceptions to a prohibition in relation to residents of premises and to licensed premises that have a frontage to the public place concerned.

New *section 709F* requires public notice of a prohibition to be given. A prohibition has no effect unless public notice of the prohibition is given in accordance with this section.

New *section 709G* makes it an offence for every person who, knowing that a prohibition is in force, contravenes the prohibition. A person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$500.

New *section 709H* provides the police with powers of arrest, search, and seizure in respect of offences against the new *section 709G*.

Clause 22 amends Schedule 3B of the principal Act to update references to repealed legislation.

PART 3

RATING POWERS ACT 1988

Clause 24 amends section 34 of the principal Act which permits a regional council to make and levy a works and services rate for the purposes of undertaking any function or work or providing any service for the benefit of all or part of the region or any out-district of the region. The amendment permits a rate under section 34 that may be made and levied for the purposes of undertaking any function or work, or providing any service, authorised by or under the Biosecurity Act 1993, also to be made and levied on the area system as a uniform rate or differentially.

LOCAL GOVERNMENT LAW REFORM (NO. 2)

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A BILL INTITULED

An Act to amend the Dog Control Act 1996, the Local Government Act 1974, and the Rating Powers Act 1988

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

1. Short Title and commencement—(1) This Act may be cited as the Local Government Law Reform Act (No. 2) 1999. 5

(2) Sections 33G to 33K, as inserted by section 6 of this Act, come into force on a date to be appointed by the Governor-General by Order in Council.

(3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent. 10

PART 1

DOG CONTROL ACT 1996

2. Part to be part of Dog Control Act 1996—This Part is part of the Dog Control Act 1996* (in this Part referred to as the principal Act). 15

*1996, No. 13

3. Power to amend Fourth Schedule by Order in Council—The principal Act is amended by inserting, after section 3, the following section:

“3A. (1) The Governor-General may, from time to time by Order in Council,— 20

“(a) Amend the **Fourth Schedule** by including the name of any type or breed of dog and a description of that type or breed of dog:

“(b) Otherwise amend the **Fourth Schedule**, or revoke that schedule, and substitute a new schedule.” 25

4. Objects—Section 4 (a) (ii) of the principal Act is amended by inserting, after the words “dangerous dogs”, the words “and restricted dogs”.

5. Delegation of powers by territorial authority—The principal Act is amended by inserting, after section 6, the following section: 30

“6A. (1) The territorial authority may from time to time delegate to any committee, sub-committee, dog control officer,

or dog ranger all or any of its functions, duties, or powers under this Act.

5 “(2) Subject to any general or special directions or conditions imposed by the territorial authority, a committee, sub-committee, dog control officer, or dog ranger to whom a function, duty, or power is delegated may exercise that function, duty, or power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.

10 “(3) A delegation must be in writing and must be recorded in a delegations register maintained by the territorial authority.

“(4) No delegation includes the power to delegate under this section.

15 “(5) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

“(6) A delegation may be made to a specified committee, sub-committee, dog control officer, or dog ranger.

20 “(7) A delegation is revocable in writing at will, but any revocation of the delegation does not take effect until it is communicated to the delegate.

“(8) A delegation, until it is revoked, continues in force according to its tenor.

25 “(9) A delegation does not affect or prevent the exercise of any function, duty, or power by the territorial authority.

“(10) No delegation affects the responsibility of the territorial authority for the actions of any person acting under the delegation.”

30 **6. New sections inserted**—The principal Act is amended by inserting, after section 33, the following headings and sections:

“Restricted Dogs

35 “**33A. Restricted class of dog**—Every dog of a type or breed specified in column 1 of the **Fourth Schedule** and described in column 2 of that schedule is a restricted class of dog.

“**33B. Territorial authority to identify restricted dog and notify owner**—(1) A territorial authority must take all reasonable steps to identify every restricted dog within its district.

40 “(2) A territorial authority must, immediately after identifying a dog as a restricted dog, give notice in the prescribed form of the identification to the owner of the dog.

“33C. **Restricted dogs**—(1) For the purposes of **sections 33B and 33H**, a dog is a restricted dog if, and only if, the territorial authority or an advisory panel convened under **section 33J** believes that the dog—

- “(a) Fits the description of a restricted class of dog; or 5
- “(b) Displays the characteristics of a hybrid of 2 different restricted classes of dog; or
- “(c) Substantially corresponds to a dog described in **paragraph (a) or paragraph (b)**.

“33D. **Objection to dog being identified as a restricted dog**—(1) If a dog is, under **section 33B (1)**, identified as a restricted dog by a territorial authority, the owner—

- “(a) May, within 14 days of receiving a notice under **section 33B (2)**, object to the identification by giving written notice of objection to the territorial authority; and 15
- “(b) Is entitled to be heard in support of the objection.
- “(2) In considering the objection, the territorial authority must have regard to—
 - “(a) The evidence on which the identification was made; and
 - “(b) The relevant description or descriptions in column 2 of the **Fourth Schedule**; and 20
 - “(c) The matters advanced in support of the objection; and
 - “(d) Any other relevant matters.
- “(3) The territorial authority must either confirm or withdraw its identification of the dog as a restricted dog. 25
- “(4) The territorial authority must, as soon as practicable after making its decision, give written notice to the owner of its decision and the reasons for its decision.

“33E. **Appeal to District Court against territorial authority determination**—(1) A person who has lodged an objection under **section 33D** and is dissatisfied with the decision of the territorial authority may, within 14 days after the day on which notice of that decision is given to that person, appeal to a District Court against that decision. 30

“(2) In hearing the appeal the District Court must consider the matters specified in **section 33D (2)** and any submission by the territorial authority in support of its identification of a dog as a restricted dog, and may uphold or overturn the territorial authority’s identification of the dog as a restricted dog. 35

“33F. **Effect of being identified as restricted dog**—(1) If a dog is identified under this Act as a restricted dog, the owner of that dog— 40

- “(a) Must ensure that, from a date not later than 1 month after the receipt of notice of identification under

section 33B (2), the dog is kept within a securely fenced portion of the owner's property which it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property; and

5 “(b) Must not allow the dog to be at large or in any public place or in any private way other than when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting, but allow it to breathe and drink without obstruction; and

10 “(c) Must produce to the territorial authority, within 1 month after the receipt of notice of identification under **section 33B (2)**, a certificate issued by a registered veterinary surgeon and certifying—

15 “(i) That the dog is or has been neutered; or

 “(ii) That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and

20 “(d) Must, where a certificate under **paragraph (c) (ii)** has been produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under **paragraph (c)**; and

25 “(e) Must, in respect of every registration year commencing after the date of receipt of the notice of identification under **section 33B (2)**, be liable for dog control fees for that dog at the prescribed level, which must not be less than 150% of the level that would apply if the dog were not a restricted dog; and

30 “(f) Must not, without the written consent of the territorial authority in whose district the dog is to be kept, dispose of the dog to any other person.

35 “(2) If a person has, within 14 days after the date on which notice of identification under **section 33B (2)** is given to that person, lodged an objection under **section 33D, subsection (1)** of this section applies in relation to that person as if the reference in that subsection to **section 33B (2)** were a reference to **section 33D (4)**.

40 “(3) If a person has, within 14 days after the date on which the notice of identification under **section 33D (4)** is given to that person in respect of an objection to which **subsection (2)** of this section refers, lodged an appeal under **section 33E, subsection (1)** of this section applies in relation to that person as if the reference

45 in that subsection to the date on which the notice under **section**

33B (2) was given to that person were a reference to the date of the decision of a District Court on that appeal upholding the territorial authority's identification of the dog as a restricted dog.

“(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who fails to comply with **subsection (1)**. 5

“(5) Where a court convicts a person of an offence against **subsection (4)**, the court must make an order for the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog. 10

“(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who sells or otherwise transfers, or offers to sell or transfer, to any other person any dog known by that person to be identified as a restricted dog without disclosing the fact of that identification to that other person. 15

“**33G. Prohibition on importation of restricted dogs or the embryo or semen of restricted dogs**—The importation into New Zealand of a restricted dog, or the importation into New Zealand of the embryo or semen of a restricted dog, is prohibited. 20

“**33H. Application of Customs and Excise Act 1996**—The provisions of the Customs and Excise Act 1996 that apply to prohibited imports apply to restricted dogs and the embryo and semen of restricted dogs, whose importation is prohibited by **section 33G**, in all respects as if the importation of those dogs and the embryo and semen of those dogs were prohibited under Part V of the Customs and Excise Act 1996. 25

“**33I. Referral to advisory panel**—If, following an examination by a Customs officer under section 151 of the Customs and Excise Act 1996, the question arises whether— 30

“(a) A dog is a restricted dog; or

“(b) Any embryo or semen is that of a restricted dog,— the Customs officer must advise the chief executive of the New Zealand Customs Service, or a person authorised by the chief executive for that purpose, who must refer the question to an advisory panel convened under **section 33J** for its determination. 35

“**33J. Advisory panel**—(1) The chief executive of the New Zealand Customs Service, or a person authorised by the chief executive for that purpose, must convene an advisory panel 40

when required for the purpose of determining whether or not—

“(a) A particular dog imported into New Zealand is a restricted dog; or

5 “(b) Any embryo or semen imported into New Zealand is that of a restricted dog.

“(2) In considering the suitability of a person for inclusion on an advisory panel, regard must be had to that person’s knowledge of and ability to identify different types and breeds of dog.

10 “33K. **Advisory panel to determine whether dog restricted dog or embryo or semen that of restricted dog**—(1) The advisory panel must determine whether a particular dog imported into New Zealand is a restricted dog or, in the case of any embryo or semen imported into New Zealand, whether that embryo or semen is that of a restricted dog.

“(2) The advisory panel must, as soon as practicable after making its determination, give notice in writing of its determination and the reasons for its determination to—

20 “(a) The chief executive of the New Zealand Customs Service or a person authorised by the chief executive for that purpose; and

“(b) The person who imported the dog or embryo or semen.

25 “(3) The determination of the advisory panel is admissible as evidence in any proceedings.”

30 **7. Dogs attacking persons or animals or rushing at vehicles**—Section 57 (3) of the principal Act is amended by inserting, after the words “dog control officer” wherever they occur, the words “or dog ranger”.

8. Allowing dogs known to be dangerous or restricted to be at large unmuzzled—The principal Act is amended by repealing section 62, and substituting the following section:

35 “62. (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who permits any dog owned by that person and known by that person—

“(a) To be dangerous; or

“(b) To be a restricted dog; or

40 “(c) To have attacked any person or any stock or poultry or property of any kind,—

to be at large or in any public place or private way, other than when confined completely within a vehicle or cage, without

being muzzled in such a manner as to prevent the dog from biting, but allow it to breathe and drink without obstruction.

“(2) Where any person is convicted of an offence against subsection (1), the court may make an order for the destruction of the dog.

“(3) Nothing in this section applies in respect of any dog kept by the police or any constable, the New Zealand Customs Service, or the Ministry of Defence or any member of the Defence Force, or any officer or employee of the New Zealand Customs Service, or the Ministry of Defence while being used for the purpose of carrying out in a lawful manner any function, duty, or power of the police, or the Service, or Ministry, or that constable, member of the Defence Force, officer, or employee.”

9. Regulations—Section 78 of the principal Act is amended by repealing subsections (1) (c), (2), and (3).

10. New Fourth Schedule—The principal Act is amended by adding the **Fourth Schedule** set out in the Schedule of this Act.

PART 2

LOCAL GOVERNMENT ACT 1974

11. Part to be part of Local Government Act 1974—This Part is part of the Local Government Act 1974* (in this Part referred to as the principal Act).

*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; 1998, No. 89; 1999, Nos. 11, 24

12. Term of office—Section 37Z of the principal Act is amended by adding the following subsection:

“(3) A member of the Commission who is in office at the end of his or her term of appointment continues to hold office until—

“(a) The member is reappointed; or

“(b) The member’s successor is appointed; or

“(c) The member is informed in writing by the Minister that he or she is not to be reappointed; or

“(d) The member resigns his or her office by writing addressed to the Minister.”

13. Provisions relating to sinking funds—(1) Section 122ZR (1) of the principal Act is amended by omitting the

words “repays any loan”, and substituting the words “repays in part any loan”.

5 (2) Section 122ZR (2) of the principal Act is amended by omitting the words “with the consent in writing of the Commissioners for the sinking fund and the creditor, or person acting on behalf of the creditor, of the relevant loan”, and substituting the words “if consent is given in accordance with **subsection (2A)**”.

10 (3) Section 122ZR of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) Consent is given in accordance with this subsection if—

“(a) Consent is given in writing; and

“(b) Consent is given by the Commissioners of the sinking fund; and

15 “(c) Consent is given by—

“(i) The creditor of the relevant loan; or

“(ii) Where there are 2 or more creditors of the relevant loan,—

“(A) All creditors of the relevant loan; or

20 “(B) Some creditors of the relevant loan if the sinking fund is sufficient to repay the balance of the loan on maturity in respect of amounts owed to creditors who do not consent.”

25 **14. Annual report**—Section 223E (3) (h) of the principal Act is amended by omitting the words “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”.

35 **15. Council may require owners of land in certain cases to provide private drains**—Section 459 (6) of the principal Act is amended by omitting the words “pursuant to section 221 of this Act”.

16. Council may make advances to owners—Section 514 (3) of the principal Act is amended by omitting the words “pursuant to section 221 of this Act”, and substituting the words “by the council”.

40 **17. Repayment of advances and purchase money**—Section 558 (1) of the principal Act is amended by omitting the

words “pursuant to section 221 of this Act”, and substituting the words “by the council”.

18. Definition of local authority trading enterprise— Section 594B (2) of the principal Act is amended by omitting the words “subparagraphs (iii) and (iv) of subsection (1)(a) of this section”, and substituting the expression “subsection (1)(a)(ii)”. 5

19. Advances by council to land owners to meet emergency expenditure— Section 674 (3) of the principal Act is amended by omitting the words “pursuant to section 221 of this Act”, and substituting the words “by the council”. 10

20. Prohibition of vehicles and consumption or possession of intoxicating liquor in public place— (1) Section 709A (1) of the principal Act is amended by omitting from paragraphs (b) and (e) the words “or empty liquor containers” in each place where they occur. 15

(2) Section 709A (7) (c) of the principal Act is amended by omitting the words “or liquor containers”.

(3) Section 709A (8) (b) and (c) of the principal Act is amended by omitting the words “or any empty liquor container” in each place where they occur. 20

(4) Section 709A (10) of the principal Act is amended by omitting paragraph (c), and substituting the following paragraph:

“(c) But subject to subsections (11) and (12), search any— 25

“(i) Vehicle in, entering, or about to enter any specified public place in respect of which any prohibition relating to liquor under subsection (1) is for the time being in force, for the purpose of ascertaining whether or not the vehicle contains any liquor: 30

“(ii) Parcel, package, bag, case, or other container in the possession of any person in, entering, or about to enter any specified public place in respect of which any prohibition relating to liquor under subsection (1) is for the time being in force, for the purpose of ascertaining whether or not the parcel, package, bag, case, or container contains any liquor.” 35

(5) Section 709A of the principal Act is amended by repealing subsections (11) and (12), and substituting the following subsections: 40

5 “(11) Before exercising the power of search conferred by subsection (10) (c), the constable must inform the person in possession of the vehicle or parcel, package, bag, case, or other container of the provisions of subsection (12), and in any case where the person is in possession of the vehicle or item in the specified public place, give the person a reasonable opportunity of removing the vehicle or item from the specified public place.

10 “(12) No constable may exercise the power of search conferred by subsection (10) (c) if the person in possession of the vehicle or parcel, package, bag, case, or other container removes it from or, as the case may be, refrains from taking it into the specified public place and leaves it outside the public place until the period of the prohibition ceases.”

15 (6) Section 709A (13) of the principal Act is amended by omitting the words “other liquor container”, and substituting the words “other container”

21. New sections inserted—The principal Act is amended by inserting, after section 709A, the following sections:

20 “709B. **Interpretation**—In sections 709c to 709h, unless the context otherwise requires,—

“ ‘Liquor’ has the same meaning as in the Sale of Liquor Act 1989:

“ ‘Prohibition’ means a prohibition under section 709c:

“ ‘Public place’—

25 “(a) Means a place that is—

“ (i) Under the control of a council; and

“ (ii) Open to or being used by the public, whether admission is free or on payment of a charge; and

30 “(b) Includes—

“ (i) A road, whether or not the road is under the control of a council; and

“ (ii) One or more parts of a public place:

“ ‘Specified day’ means any of the following days:

35 “(a) Waitangi Day:

“(b) The seventh of February:

“(c) A day in the period beginning on Good Friday and ending on the close of the following Easter Monday:

40 “(d) The fifth of November:

“(e) The sixth of November:

“(f) A day in the period beginning on 24 December and ending on the close of 2 January in the following year:

“ ‘Vehicle’—

“(a) Has the same meaning as in section 2 of the Land Transport Act 1998; but

“(b) Does not include an ambulance, fire engine, or police vehicle.

“709C. **Further power to prohibit vehicles and liquor in public places**—(1) A council may exercise the power in **subsection (2)** if the council—

“(a) Is satisfied on reasonable grounds that—

“(i) Liquor will be present in a public place on a specified day; and

“(ii) The presence of liquor in the public place on the specified day is likely to lead to the commission in the public place of a number of offences against 1 or more of the following sections of the Summary Offences Act 1981:

“(A) Section 3 (disorderly behaviour):

“(B) Section 4 (offensive behaviour or language):

“(C) Section 5A (disorderly assembly):

“(D) Section 7 (fighting in a public place):

“(E) Section 9 (common assault); and

“(b) Has used the special consultative procedure in section 716A.

“(2) A council may prohibit 1 or more of the following:

“(a) The use of vehicles in a public place during a specified day:

“(b) The consumption of liquor in a public place during a specified day:

“(c) The bringing of liquor into a public place during a specified day:

“(d) The possession of liquor in a public place during a specified day.

“(3) The power in **subsection (2)** must not be exercised—

“(a) In respect of a period of time in a specified day that exceeds 12 hours:

“(b) In respect of 2 or more periods of time in a specified day that, in total, exceed 12 hours.

“(4) The power in **subsection (2)** may be exercised in respect of 2 or more specified days, whether consecutive or not.

“(5) A council must not delegate its power in **subsection (2)** to—

“(a) A committee of the council under section 114Q unless all the members of the committee are members of the council; or

“(b) A member or officer of the council under section 715.

5 “(6) The power in **subsection (2)** is in addition to the powers conferred on a council under—

“(a) Sections 319 and 342:

“(b) Regulations made under section 167 of the Land Transport Act 1998.

10 “709D. **Exceptions to prohibition for residents and their visitors**—A prohibition does not apply to—

“(a) The use of a vehicle by a person residing in premises on land having a frontage to the public place concerned or by genuine visitors of the person:

15 “(b) The transport of liquor from premises on land having a frontage to the public place concerned if—

“(i) The liquor is being delivered by a person residing on the premises or by the person’s genuine visitors to a place outside the public place; and

20 “(ii) The liquor is promptly removed from the public place:

“(c) The transport of liquor from outside the public place concerned if—

25 “(i) The liquor is being delivered to a person residing on premises having a frontage to the public place or to the person’s genuine visitors; and

“(ii) The liquor is promptly removed from the public place.

30 “709E. **Exceptions to prohibition for licensed premises**—A prohibition does not apply to—

“(a) The transport of liquor from premises on land having a frontage to the public place concerned if—

35 “(i) The liquor has, under the Sale of Liquor Act 1989, been sold on the premises for consumption off the premises; and

“(ii) The liquor is promptly removed from the public place:

“(b) The transport of liquor from outside the public place concerned for delivery to premises on land having a frontage to the public place concerned if—

40 “(i) The liquor may, under the Sale of Liquor Act 1989, be sold on the premises; and

“(ii) The liquor is promptly removed from the public place.

“709F. **Public notice**—(1) A prohibition has no effect unless public notice of the prohibition is given in accordance with this section.

“(2) Public notice of a prohibition must be given—

“(a) By displaying the notice in the public place concerned on the date it comes into force and before the time it comes into force; and 5

“(b) In a newspaper circulating in the district concerned on at least 3 occasions during the period of 21 days immediately before— 10

“(i) The specified day on which the prohibition comes into force; or

“(ii) If the prohibition applies to 2 or more consecutive specified days, the first of the specified days on which the prohibition comes into force. 15

“(3) However, if it is not practicable to give public notice of a prohibition in accordance with **subsection (2) (b)** because the decision of the council was made in special circumstances within a short period before the date of the prohibition, the council must— 20

“(a) Comply with **subsection (2) (b)** so far as is practicable; and

“(b) Ensure that similar notices are given to the public in whole or in part by such other means as the council, after consultation with the police, considers appropriate. 25

“(4) A notice required to be given or displayed under **subsection (2)** or **subsection (3)** must—

“(a) State the specified day or days on which the prohibition is in force and the hours of the specified day or days during which the prohibition is in force; and 30

“(b) Describe clearly the public place concerned; and

“(c) State whether or not the use of vehicles is prohibited in the public place concerned and, if it is, state the classes of vehicles (if any) the prohibition does not apply to; and 35

“(d) State any prohibitions relating to the consumption of liquor and the bringing or possession of liquor that apply; and

“(e) State the powers conferred on the police by **section 709H**; and 40

“(f) State the maximum penalty for offences against **section 709G**.

“709G. **Offences**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500

who, knowing that a prohibition is in force, contravenes the prohibition.

“709H. **Powers of arrest, search, and seizure**—(1) A member of the police may, without a warrant,—

5 “(a) Arrest a person whom the member of the police finds committing an offence against **section 709G**:

“**(b)** While a prohibition is in force, arrest a person whom the member of the police has reasonable cause to suspect of having committed an offence against **section 709G**.

10 “(2) A member of the police may, without a warrant, search—

“**(a)** A vehicle in, entering, or about to enter a public place, in respect of which a prohibition under 1 or more of **paragraphs (b) to (d) of section 709c (2)** is in force, for the purpose of ascertaining whether or not the vehicle contains liquor:

15 “**(b)** A container (for example, a parcel, package, bag, or case) in the possession of a person who is in, entering, or about to enter a public place, in respect of which a prohibition under 1 or more of **paragraphs (b) to (d) of section 709c (2)** is in force, for the purpose of ascertaining whether or not the container contains liquor.

20 “(3) Before exercising the power of search in **subsection (2)**, a member of the police must—

“**(a)** Inform the person in possession of the vehicle or container of the provisions of **subsection (4)**; and

25 “**(b)** If the person is in possession of the vehicle or container in the public place, give the person a reasonable opportunity to remove the vehicle or container from the public place.

30 “(4) A member of the police must not exercise the power of search in **subsection (2)** if the person in possession of the vehicle or container removes it from, or refrains from taking it into, the public place concerned.

35 “(5) A member of the police may seize and remove liquor and its container or any other container that the member of the police has reasonable cause to believe would be evidence of the commission of an offence against **section 709G**.

40 “(6) Liquor or a container seized under **subsection (5)** is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of an offence against **section 709G**.”

22. Schedule 3B amended—(1) Schedule 3B of the principal Act is amended by repealing clause 5, and substituting the following clause:

“5. Provisions dealing with the administration of any existing proposed or operative district plan or regional plan under the Resource Management Act 1991.”

(2) Schedule 3B of the principal Act is amended by repealing clause 21.

PART 3

RATING POWERS ACT 1988

23. Part to be part of Rating Powers Act 1988—This Part is part of the Rating Powers Act 1988* (in this Part referred to as the principal Act).

*1988, No. 97

Amendments: 1989, No. 38; 1989, No. 135; 1991, No. 55; 1992, No. 44; 1996, No. 87

24. Regional works and services rates—Section 34 of the principal Act is amended by adding the following subsection:

“(3) However, a rate under this section that may be made and levied for the purposes of undertaking any function or work, or for providing any service, authorised by or under the Biosecurity Act 1993 may also be made and levied on the area system as a uniform rate or differentially.”

SCHEDULE

Section 10

NEW FOURTH SCHEDULE ADDED TO DOG CONTROL ACT 1996

“FOURTH SCHEDULE

Section 33A

DOGS OF A RESTRICTED CLASS

Column 1 Restricted type or breed	Column 2 Description
American Pit Bull Terrier	<p>HEAD—Medium length. Brick-like in shape. Skull flat and widest at the ears, with prominent cheeks free from wrinkles. No pronounced stop.</p> <p><i>Muzzle</i>—Square, wide, and deep. Well pronounced jaws, displaying strength. Upper teeth should meet slightly over lower teeth, outside in front.</p> <p><i>Ears</i>—Cropped or uncropped (not important). Should set high on head, and be free from wrinkles.</p> <p><i>Eyes</i>—Round. Should set far apart, low down on skull. May be any colour.</p> <p><i>Nose</i>—Wide open nostrils. Any colour acceptable.</p> <p><i>Neck</i>—Muscular. Slightly arched. Tapering from shoulder to head. Free from looseness of skin.</p> <p>SHOULDERS—Strong and muscular with wide sloping shoulder blades.</p> <p>BACK—Short and strong. Slightly sloping from withers to rump. Slightly arched loins, which should be slightly tucked.</p> <p>CHEST—Deep, but not too broad, with wide sprung ribs.</p> <p>RIBS—Close, well sprung, with deep back ribs.</p> <p>TAIL—Short in comparison to size. Set low and tapering to a fine point. Not carried over back. Bobbed tail not acceptable.</p> <p>LEGS—Large, round boned, with straight, upright pasterns, reasonably strong. Feet to be of medium size. Gait should be light and springy. No rolling or pacing.</p>

SCHEDULE—*continued*NEW FOURTH SCHEDULE ADDED TO DOG CONTROL ACT 1996—*continued*“FOURTH SCHEDULE—*continued*DOGS OF A RESTRICTED CLASS—*continued*

Column 1 Restricted type or breed	Column 2 Description
	<p>THIGH—Long with muscles developed. Hocks down straight.</p> <p>COAT—Glossy. Short and stiff to the touch.</p> <p><i>Colour</i>—Any colour or markings are permissible.</p> <p>HEIGHT—From 40 cm to 56 cm</p> <p>WEIGHT—Not important. Females preferred from 14 kg to 23 kg. Males from 16 kg to 27 kg. A major common feature is the powerful head and strong muzzle; these features are somewhat similar to the American Staffordshire Terrier or the Staffordshire Bull Terrier.”</p>