

LOCAL LEGISLATION BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

City and Borough Councils

Clause 2 relates to 29 agreements for the sale of municipal endowment land by the Cambridge Borough Council that are illegal because of the failure of the Council to obtain the consent of the Minister of Local Government to the sales. The clause validates the actions of the Council and the agreements, and requires the proceeds from the sales to be dealt with so as to preserve the endowment.

Clause 3 relates to 2 loans, known as the Sewer Loan 1975 and the Sewer Loan No. 2 1975, raised by the Hamilton City Council. The Council spent \$1,130,694 out of its general funds in anticipation of the raising of the loans, and then repaid \$622,094 out of the former and \$508,600 out of the latter. The clause validates the repayments.

Clause 4 relates to a loan, known as the Huntly Public Library Loan 1976, raised by the Huntly Borough Council. The Council spent \$30,000 out of its general funds in anticipation of the raising of the loan, and then repaid that amount out of the proceeds of the loan. The clause validates the repayment.

Clause 5 empowers the Kapiti Borough Council to contribute up to \$70,000 out of its Reserve Contribution Account towards the cost of constructing a gymnasium at Paraparaumu College.

Clause 6 authorises the One Tree Hill Borough Council to apply the proceeds from the sale of a small parcel of land held by it for use as a public drain and no longer required for that purpose towards the purchase and development of other Council land and buildings, rather than for the purchase of other land to be used for the same purpose as required by section 230 (3) of the Local Government Act 1974.

Clause 7 validates the rates resolved to be made and levied by the Pahiatua Borough Council for the 1976-77 year, which are invalid by virtue of exceeding the limit imposed by section 90 of the Municipal Corporations Act 1954.

Clause 8 validates 3 drainage rates and charges made in respect of the 1976-77 year by the Wairoa Borough Council that are invalid by virtue of their not being made in conformity with sections 102 and 103 of the Municipal Corporations Act 1954.

Clause 9 relates to a contract for the repair of certain machinery, entered into by the Waitemata City Council without compliance with the provisions of the Municipal Corporations Act relating to contracts for the execution of work. The Council agreed to sell the machinery (valued at \$15,000) for \$24,000. It then contracted to have the machinery overhauled and paid \$15,050.23 under that contract. The actions of the Council in entering into the contract, and the payment made under it, are validated.

County Councils

Clause 10 relates to the rates purported to have been made and levied in respect of the 1976-77 year by the Cook County Council. Although the Council passed a resolution stating its intention to make the rates, and later gave public notice of that intention, it never actually made them. The clause validates the rates, and the various actions of the Council in levying them.

Clause 11 relates to a loan known as the Opononi Development Loan 1966 raised by the Hokianga County Council. Under the Local Authorities Loans Act 1956, no local authority can raise a special loan without the sanction of the Local Authorities Loans Board. Section 40 (2) of that Act provides that where any part of a loan is borrowed within 3 years of the obtaining of the Board's sanction, the local authority concerned has another 7 years within which to borrow the residue before the sanction expires. The Hokianga County Council raised \$5000 of the loan some 5 weeks after the sanction to raise it had expired; and the clause validates the borrowing.

Clause 12 relates to the various differential rates made by the Waitaki County Council in respect of the 1977/78 year. In the course of its calculations the Council misplaced a decimal point, and made a rate that was only one percent of what was intended. The clause substitutes the rates intended to be made for those actually made, and validates the actions of the Council in levying and collecting money at the higher rate.

Catchment Commissions, Drainage Boards, Town Councils, and Hospital Boards

Clause 13 relates to a loan of \$17,000 made by the Taranaki Catchment Commission to an employee and his wife. The loan was made to enable the repayment of bridging finance that had been raised for the purchase of a home in anticipation of the granting of the loan. This is not a purpose for which Catchment Commissions are authorised to make advances to employees; and the clause validates the loan.

Clause 14 relates to the classification of land in the Wakapuaka Drainage District. The Wakapuaka Drainage Board struck its rates for the 1977-78 year on the basis of an unlawful (in that it had not been made in accordance with the Land Drainage Act 1908) amendment to its classification list. The clause validates the amendment and the rates, and also changes the designation of one class of land from class B Special to its proper designation class C.

Clause 15 relates to a retirement gratuity, paid by the Waverley Town Council despite the fact that the retiring employee to whom it was paid did not qualify for it, and validates its payment.

Clause 16 relates to a loan known as the Hospital Works Loan 1974 raised by the Wellington Hospital Board. Although the loan was not raised for such a purpose, \$120,918 of it was spent by the Board in the purchase of certain motor vehicles. The clause validates the expenditure.

Hon. Mr Highet

LOCAL LEGISLATION

ANALYSIS

Title	
1. Short Title	
<i>City and Borough Councils</i>	
2. Cambridge Borough Council: Validating illegal agreements to sell land	
3. Hamilton City Council: Validating illegal use of loan money	
4. Huntly Borough Council: Validating illegal use of loan money	
5. Kapiti Borough Council: Authorising grant towards gymnasium	
6. One Tree Hill Borough Council: Authorising application of proceeds from sale of certain land	
7. Pahiatua Borough Council: Validating excessive rate	
8. Wairoa Borough Council: Validating incorrectly calculated rates	
9. Waitemata City Council: Validating illegally made contract and payment under it	
<i>County Councils</i>	
10. Cook County Council: Deeming rates to have been made	
11. Hokianga County Council: Validating unauthorised borrowing	
12. Waitaki County Council: Increasing incorrectly calculated rates	
<i>Catchment Commissions, Drainage Boards, Town Councils, and Hospital Boards</i>	
13. Taranaki Catchment Commission: Validating illegal loan	
14. Wakapuaka Drainage Board: Validating illegal reclassification of land	
15. Waverley Town Council: Validating illegal payment of retirement gratuity	
16. Wellington Hospital Board: Validating illegal use of loan money Schedule	

A BILL INTITULED

An Act to confer certain powers on certain public bodies and to authorise and validate certain transactions and other matters

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

1. Short Title—This Act may be cited as the Local Legislation Act 1978.

City and Borough Councils

2. Cambridge Borough Council: Validating illegal agreements to sell land—Notwithstanding that they were without the consent of the Minister of Local Government required by section 150 (4) of the Municipal Corporations Act 1954, the actions of the Cambridge Borough Council in entering, as the Mayor, Councillors, and Citizens of the Borough of Cambridge, into the agreements for the sale and purchase of land that is a municipal endowment specified in the Schedule to this Act are hereby validated and deemed to have been lawful, and those agreements are hereby validated and deemed to be lawful; and the said Council is hereby authorised and empowered to sell the land agreed to be sold accordingly. 5

(2) The proceeds from the sale of the said land shall be invested— 10

(a) In other land; or

(b) In securities of other local authorities; or

(c) On deposit with the National Provident Fund or any Bank; or 20

(d) In first mortgage loans for staff housing—
so as to preserve the endowment.

3. Hamilton City Council: Validating illegal use of loan money—The actions of the Hamilton City Council in paying into its General Fund— 25

(a) Out of the proceeds of the loan known as the Sewer Loan 1975, the sum of \$622,094; and

(b) Out of the proceeds of the loan known as the Sewer Loan No. 2 1975, the sum of \$508,600,—

(being in each case an amount spent, for purposes for which the loan concerned was to be raised, in anticipation of the raising of that loan) are hereby validated and deemed to have been lawful. 30

4. Huntly Borough Council: Validating illegal use of loan money—The actions of the Huntly Borough Council in paying into its General Bank Account \$30,000 out of the proceeds of the loan known as the Huntly Public Library Loan 1976 (being an amount spent, for purposes for which it was raised, in anticipation of the raising of that loan) are hereby validated and deemed to have been lawful. 40

5. Kapiti Borough Council: Authorising grant towards gymnasium—(1) Notwithstanding that it is not otherwise authorised to do so, the Kapiti Borough Council is hereby authorised and empowered to pay to the Board of Governors of Paraparaumu College out of its Reserves Contribution Account such sum or sums (not exceeding in the aggregate \$70,000) as the said Council thinks fit towards the cost of constructing a gymnasium at Paraparaumu College; and the said Board shall hold and apply all such sums for that purpose.

(2) Notwithstanding subsection (1) of this section, the receipt of the Secretary for the time being of the said Board shall be a full and sufficient discharge to the said Council for any such sum, and the said Council shall not be obliged to see to its application.

6. One Tree Hill Borough Council: Authorising application of proceeds from sale of certain land—(1) Notwithstanding section 230 (3) of the Local Government Act 1974, the One Tree Hill Borough Council is hereby authorised and empowered to apply the proceeds from the sale of the land described in subsection (2) of this section towards—

(a) The purchase of land; and
(b) The development of buildings,—
associated with the said Council's activities, or for either of those purposes.

(2) The said land comprises all that parcel of land containing 2.3 perches, more or less, being part Lot 30, D.P. 4384, and being portion of Allotment 1, Section 12, Suburbs of Auckland, and being all the land comprised and described in certificate of title, Volume 160, folio 227 (North Auckland Registry).

7. Pahiatua Borough Council: Validating excessive rate—Notwithstanding that the general rate on the land value of all rateable property in the Borough of Pahiatua of 7.88 cents per dollar resolved to be made and levied in respect of the year that ended with the 31st day of March 1977 by the Pahiatua Borough Council at a duly notified meeting held on the 14th day of June 1976 was invalid by virtue of its exceeding the limit imposed by section 90 of the Municipal Corporations Act 1954,—

(a) The said rate is hereby validated and deemed to have been lawfully made:

- (b) All actions of the said Council in levying and collecting the said rate are hereby validated and deemed to have been lawful:
- (c) All money received by the said Council in payment of the said rate is hereby deemed to have been lawfully paid to and received by it: 5
- (d) Such part of the said rate as has not yet been paid to the said Council is hereby deemed to be lawfully payable, and capable of being collected as if it had always been lawfully payable. 10

8. Wairoa Borough Council: Validating incorrectly calculated rates—(1) Notwithstanding that the rates described in subsection (2) of this section (in this section referred to as the said rates) resolved to be made and levied in respect of the year that ended with the 31st day of March 1977 by the Wairoa Borough Council at a duly notified ordinary meeting held on the 28th day of June 1976 were not made in conformity with sections 102 and 103 of the Municipal Corporations Act 1954,— 15

- (a) The said rates are hereby validated and deemed to have been lawfully made: 20
- (b) All actions of the said Council in levying and collecting the said rates are hereby validated and deemed to have been lawful:
- (c) All money received by the said Council in payment of the said rates is hereby deemed to have been lawfully paid to and received by it: 25
- (d) Such part of the said rates as has not yet been paid to the said Council is hereby deemed to be lawfully payable, and capable of being collected as if it had always been lawfully payable. 30
- (2) The said rates comprise:
 - (a) The separate sanitation charge of \$50 on all rateable commercial and industrial properties in the Borough of Wairoa having a building thereon: 35
 - (b) The separate drainage rate of 0.58 cents per dollar on the land value of all rateable property in the said Borough connected, directly or through a private drain, to any public drain: 38
 - (c) The annual charge of \$20 for each second or subsequent water-closet or urinal in any building situated on or comprising rateable property in the said Borough. 40

9. Waitemata City Council: Validating illegally made contract and payment under it—Notwithstanding that they were contrary to section 147 of and the Fifth Schedule to the Municipal Corporations Act 1954, the actions of the

5 Waitemata City Council in,—

- (a) Entering into a contract with Winstone Quarries Limited for the refurbishing of a Goodwin Barsby Primary Jaw Crusher otherwise than in accordance with those provisions; and
 - 10 (b) On the 29th day of March 1978, paying \$15,050.23 to the said Winstone Quarries Limited in respect of work done under the said contract,—
- are hereby validated and deemed to have been lawful.

County Councils

15 **10. Cook County Council: Deeming rates to have been made**—(1) Notwithstanding that the rates described in sub-section (2) of this section were never lawfully made—

20 (a) The said rates are hereby deemed to have been lawfully resolved to be made and levied on the 21st day of May 1976 in respect of the year that ended with the 31st day of March 1977:

25 (b) All actions of the said Council in levying and collecting the said rates, allowing a discount of 5 percent on amounts paid to it in respect of such of the said rates as were general, separate, or special rates, and were so paid before the 28th day of August 1976, and imposing a penalty of 10 percent on such part of the said rates as had not been paid to it by 4 p.m. on the 28th day of January 1977, are hereby

30 validated and deemed to have been lawful:

(c) All money received by the said Council in payment of the said rates is hereby deemed to have been lawfully paid to and received by it:

35 (d) Such part of the said rates and penalty as has not yet been paid to the said Council is hereby deemed to be lawfully payable, and capable of being collected as if it had always been lawfully payable.

40 (2) The said rates comprise the general rate of 0.5262 cents per dollar on the land value of all rateable property in that part of the County of Cook defined as the Differential Rating Area No. 1 other than the former Patutahi Town District, the general rate of 0.9227 cents per dollar on the land value of all rateable property in that part of the County of Cook defined

as the Differential Rating Area No. 2, the general rate of 1.1501 cents per dollar on the land value of all rateable property in that part of the County of Cook defined as the Northern Division, the general rate of 0.3219 cents per dollar on the capital value of all rateable property in that part of the County of Cook which comprises the former Patutahi Town District, the general separate rate of 0.8006 cents per dollar on the land value of all rateable property in that part of the County of Cook which comprises the Makaraka Separate Rating Area, and the special rate of 0.0637 cents per dollar on the land value of all rateable property in that part of the County of Cook which comprises the Wainui Beach Erosion Loan Special Rating Area, a resolution stating the intention of the Cook County Council to make all of which in respect of the year that ended with the 31st day of March 1977 was passed by the said Council at a duly notified meeting held on the 21st day of May 1976.

11. Hokianga County Council: Validating unauthorised borrowing—Notwithstanding that section 40 (2) of the Local Authorities Loans Act 1956 provides that the sanction of the Local Authorities Loans Board to the raising of a special loan lapses at the expiration of 10 years after the giving of that sanction where part of the loan has been raised within the period of 3 years after the giving of that sanction, the actions of the Hokianga County Council in borrowing the sum of \$5000, in respect of a loan known as the Opononi Development Loan 1966, after the 20th day of September 1976 (being the final day of a period of 10 years from the date on which the said Board gave its sanction to the raising of that loan) are hereby validated and deemed to have been lawful; and every debenture and other security issued in respect of the borrowing and repayment of that sum is hereby deemed to be as valid and effectual as it would be if that sum had been borrowed on the 20th day of September 1976.

12. Waitaki County Council: Increasing incorrectly calculated rates—(1) For the purposes of this section “the appropriate lower rate”, in relation to any property, means whichever of the rates described in subsection (2) of this section would, but for that subsection, have applied to that property on the 29th day of July 1977.

(2) The several differential general rates resolved to be made and levied on rateable property within the County of Waitaki in respect of the year that ended with the 31st day of March 1978 by the Waitaki County Council at a duly notified
5 ordinary meeting held on the 29th day of July 1977 are hereby deemed not to have so been made and levied.

(3) The said Council is hereby deemed to have lawfully resolved, on the 29th day of July 1977, that there be made and levied on every rateable property in the said County,
10 in respect of the year that ended with the 31st day of March 1978, a general rate (in this section referred to as the appropriate higher rate) 100 times the amount of the appropriate lower rate.

(4) All actions of the said Council in levying, in respect
15 of the general rate for the year that ended with the 31st day of March 1978 on any rateable property in the said County, an amount calculated on the basis of the appropriate higher rate are hereby validated and deemed to have been lawful.

(5) All money received by the said Council in payment of
20 the general rate for the year that ended with the 31st day of March 1978 on any rateable property in the said County, calculated on the basis of the appropriate higher rate, is hereby deemed to have been lawfully paid to and received by it.

(6) Such part of the general rate for the year that ended
25 with the 31st day of March 1978 on any rateable property in the said County, calculated on the basis of the appropriate higher rate, as has not yet been paid to the said Council is hereby deemed to be lawfully payable to it, and capable of
30 being collected as if it had always been lawfully payable.

*Catchment Commissions, Drainage Boards, Town Councils,
and Hospital Boards*

13. Taranaki Catchment Commission: Validating illegal loan—(1) Notwithstanding that it was not so advanced for
35 a purpose authorised by section 22 (1) (d) of the Finance Act (No. 2) 1947, the actions of the Taranaki Catchment Commission in advancing, on the 31st day of May 1977, to Warwick Bruce Coombridge and Alison Nancy Coombridge the sum of \$17,000 upon the security of a first mortgage over
40 the land more particularly described in subsection (2) of this section are hereby validated and declared to have been lawful.

(2) The said land comprises all that parcel of land situated in Block I Ngaere Survey District containing 8759 m², more or less, being part Lot 1, D.P. 1988, and being all the land comprised and described in certificate of title No. D4/1179 (Taranaki Registry).

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14. Wakapuaka Drainage Board: Validating illegal reclassification of land—(1) All the rateable property within the district of the Wakapuaka Drainage Board is hereby deemed to be classified for the purposes of Part I of the Land Drainage Act 1908 as follows:

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(a) All the rateable property in that part of the district that is bounded by Main Glen Road and Athol Street is classified as class B:

(b) Subject to paragraph (a) of this subsection, such of the rateable property in the district as was, immediately before the commencement of this Act, classed as class A or class B is classified as class A or class B, as the case may be:

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(c) Subject to paragraph (a) of this subsection, such of the said property as was, immediately before the commencement of this Act, purported to be classed as class B Special is classified as class C.

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(2) The classification of land effected by subsection (1) of this section may be amended, or there may be a classification list made in substitution for it, as if it were a classification list made under section 33 of the Land Drainage Act 1908.

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(3) Notwithstanding that the rates on rateable property in the Wakapuaka Drainage District resolved to be made and levied in respect of the year that ended with the 31st day of March 1978 by the Wakapuaka Drainage Board at a meeting held on the 25th day of November 1977 (in this section referred to as the said rates) were so resolved to be made and levied on the basis of a classification list that had been unlawfully amended,—

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(a) The said rates are hereby deemed to be as valid and as lawfully made; and

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(b) All actions of the said Board in levying and collecting the said rates are hereby deemed to be as valid and as lawful; and

(c) All money received by the said Board in payment of the said rates is hereby deemed to have been as lawfully paid to and received by it; and

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(d) Such part of the said rates as has not yet been paid to the said Board is hereby deemed to be as lawfully payable and capable of being collected—
as if subsection (1) of this section had been in force on the
5 25th day of November 1977.

(4) For the purposes of subsection (3) of this section, every reference in any resolution, notice, advertisement, minute, assessment, bill, receipt, or other document, that—

10 (a) Was, on or after the 25th day of November 1977, or is hereafter, passed, issued, published, or made; and

(b) Relates to any rateable property within the Waka-puaka Drainage District—

to property that is classified class B Special shall be deemed to be, and always to have been, a reference to property that
15 is classified class C.

15. Waverley Town Council: Validating illegal payment of retirement gratuity—Notwithstanding that the actions of the Waverley Town Council in paying to James Edward Armstrong, during the year that ended with the 31st day of March
20 1978, a retirement gratuity of \$500 were illegal by virtue of the fact that he had not been in the service of the said Council for 10 years as required by section 6 of the Finance Act (No. 2) 1941, those actions are hereby validated and deemed to have been lawful.

25 **16. Wellington Hospital Board: Validating illegal use of loan money**—Notwithstanding that the loan known as the Hospital Works Loan 1974 was not raised for such a purpose, the actions of the Wellington Hospital Board in expending \$120,918 out of the proceeds of that loan for the purpose
30 of purchasing certain motor vehicles are hereby validated and deemed to have been lawful.

Section 2

SCHEDULE

AGREEMENTS FOR SALE AND PURCHASE VALIDATED

Agreements in respect of which Certificate of Title issued

Purchasers	Certificate of Title (South Auckland Registry)
Rex James Beech and Phyllis Norma Beech	4C/1391
Rodney Alexander William Biggar and Shirley Verrell Biggar	18C/45
Kerry Edward Boyce and Margaret Anne Boyce	4C/1476
Raymond Thomas Brown	4C/1194
John William Burgess	4C/1298
Antoinette Hotop	18C/105
Ian Peter Coles and Joyce Glover Coles	4C/1449
Arthur Wilfred George and Hilda Maud George	4C/1466
Thomas Cleland Gillies and Patricia Shirley Gillies	15B/1126
James Gordon Hawker and Dorothy May Hawker	15D/1372
Desmond Walter Herbert	18C/399
Max William Highnam	18C/326
Allan David Jamieson and Zeldia Roena Jamieson	15A/82
William Leo Kelly and Margaret Lorraine Kelly	18C/179
Ian Terrence McKelvey	4C/1440
Francis Cardigan Pierce	4C/1215
Johannes Maria Rakels and Lesley Alwyn Rakels	4C/1335
Thelma Mary Reid	18C/277
Elsie May Shaw	18C/398
Michael Francis Swayne	18C/428
Roger Lawrence Stewart and Pauline Lydia Stewart	4C/1392
Raymond Langley Stites and Betty Mae Stites	18C/2
Franciscus Cabrini Maria Van Den Heuvel	18C/48
Brian William Webber	18C/1

Other agreements

1. An agreement dated the 5th day of March 1971 for the sale of the land comprising 809 m², more or less, being Lot 8, D.P. S4995, and being all the land comprised and described in certificate of title No. 11B/44 (South Auckland Registry) to George Robert Hawkes and Maureen Margaret Hawkes.

2. An agreement dated the 27th day of July 1972 for the sale of the land comprising 865 m², more or less, being Lot 1, D.P. S1582, and being all the land comprised and described in certificate of title No. 13C/1202 (South Auckland Registry) to Graham Edward Holmes and Lloma Patricia Holmes.

3. An agreement dated the 27th day of September 1972 for the sale of the land comprising 35.2 perches, more or less, being Lot. 3, D.P. S1821, and being part of the land comprised and described in certificate of title, Volume 661, folio 140 (South Auckland Registry) to Clara Evelyn Wallis.

SCHEDULE—*continued*

4. An agreement dated the 25th day of July 1973 for the sale of the land comprising 874 m², more or less, being Lot 2, D.P. S1582, and being all the land comprised and described in certificate of title No. 13C/1203 (South Auckland Registry) to Bruce Victor Young.

5. An agreement dated the 27th day of April 1971 for the sale of the land comprising 35.6 perches, more or less, being Lot 1, D.P. S2471, and being part of the land comprised and described in certificate of title, Volume 48, folio 27 (South Auckland Registry) to James Patrick Mullins.