

## HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Tuesday, 15 July 1986

LOCAL GOVERNMENT AMENDMENT BILL (NO. 2)

*Proposed Amendments*

Hon. Dr MICHAEL BASSETT, in Committee, to move the following amendments:

*New clause 1A:* To insert, after clause 1, at the foot of page 1, the following clause:

**1A. Remuneration, allowances, and expenses—**(1) The principal Act is hereby amended by repealing section 10 (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977), and substituting the following section:

“10. (1) There shall be paid to the members of the Commission appointed under section 3 of this Act such remuneration by way of fees, salaries, wages, or allowances as may from time to time be determined, either generally or in respect of any particular person, by the Higher Salaries Commission.

“(2) Subject to section 19(1) of the Higher Salaries Commission Act 1977, every determination under subsection (1) of this section shall take effect on and from a date that may be specified in that determination which may be before, on, or after the date on which the determination is made; and if no date is so specified the determination shall take effect on and from the date on which it is made.

“(3) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(4) There shall be paid to the members of the Commission travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

“(5) There shall be paid to—

“(a) Deputy members of the Commission appointed under section 6 of this Act:

“(b) Temporary members appointed under section 8 of this Act:

“(c) Conciliators appointed under section 27 of this Act who are not members of the Commission—  
remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.”

(2) The Higher Salaries Commission Act 1977 is hereby amended by inserting in the Fourth Schedule (as substituted by section 3 of the Higher Salaries Commission Amendment Act 1980), after the item "The members of the Information Authority" (as inserted by section 50 of the Official Information Act 1982), the item:

"The members of the Local Government Commission."

*New clause 4A:* To insert, after clause 4, at line 30 on page 3, the following clause:

**4A. New section inserted**—The principal Act is hereby amended by repealing section 214B (as enacted by section 16 of the Local Government Amendment Act 1985), and substituting the following section:

**"214B. Annual allowances and remuneration to be determined by Minister following determination by Higher Salaries Commission**—(1) Within 6 months after the Higher Salaries Commission has advised the Minister of a determination under section 214A (1) of this Act, the Minister, acting with the consent of the appropriate Minister, shall determine—

"(a) The maximum or actual annual allowance of the Chairman of a local authority where that allowance is not determined by the Commission under section 214A of this Act:

"(b) The maximum or actual annual allowances or remuneration of the Deputy Chairman of a local authority (not being a town council) appointed under section 96 (4) of this Act, or the corresponding provisions of any other Act:

"(c) The maximum or actual annual allowance or remuneration of members (other than the Chairman) of a local authority or district community council who are chairmen of standing or special committees appointed by the local authority under section 104 of this Act, or standing or special committees appointed under the corresponding provisions of any other Act:

"(d) The maximum or actual annual allowance or remuneration of members of a local authority (including, if considered appropriate, Deputy Chairmen and chairmen of standing or special committees not acting in those capacities).

"(2) Any determination under **subsection (1)** of this section may prescribe conditions subject to which the annual allowances and remuneration referred to in that subsection may be paid, including—

"(a) Conditions as to the maximum number of meetings or conferences in respect of which payments may be made:

"(b) Conditions subject to which any person may be paid a combination of annual allowance and remuneration:

"(c) Conditions subject to which any person may be paid annual allowances and remuneration in respect of more than one of **paragraphs (b) to (d) of subsection (1)** of this section, and conditions prohibiting payments to any person under more than one such paragraph.

“(3) Any local authority may impose conditions subject to which the annual allowances and remuneration referred to in subsection (1) of this section may be paid so long as the conditions are not inconsistent with this Act or any conditions determined by the Minister under subsection (2) of this section.

“(4) Every determination under subsection (1) of this section shall be made having due regard to any changes in the annual allowances determined by the Commission under section 214A (1) of this Act, and such other matters as the Minister considers relevant.

“(5) Any determination under subsection (1) of this section may establish different annual allowances or remuneration for the persons concerned as between different classes of local authorities and as between local authorities of the same class.

“(6) Every determination under subsection (1) of this section shall—

“(a) Set out in full any relevant current determination of the Commission that preceded the determination:

“(b) Specify the date on and from which the determination under subsection (1) of this section shall take effect, which shall be the date on and from which the determination of the Commission under section 214A of this Act is to take effect and may be before, on, or after the date of the determination under subsection (1) of this section.

“(7) Every determination under subsection (1) of this section is hereby deemed for the purposes of any Act to be a regulation.”

Cf. 1974, No. 66, s. 214 (1), (1A); 1977, No. 122, s. 2; 1980, No. 82, s. 28; 1985, No. 60, s. 16

*Clause 5:* To omit subsection (3) of section 239 from lines 15 to 18 on page 4, and substitute the following subclauses:

“(3) The parties to every contract or arrangement entered into under subsection (1) of this section shall ensure that there is prepared as soon as practicable after the 31st day of March in each year during which the contract or arrangement remains in force, and as soon as practicable after the day on which the contract or arrangement ceases to be in force, such financial statements as are necessary to show the financial results of the undertaking for the year or period ending with that day.

“(4) The financial statements prepared under subsection (3) of this section shall be audited by—

“(a) The Audit Office in the case of a contract or arrangement the terms of which provide that—

“(i) The combined value of the financial contributions to the undertaking by the parties that are local authorities, public bodies, Government departments, or the Crown (or any combination of them) is 50 percent or more of the total financial contributions by all of the parties; or

“(ii) The combined value of the share of net costs, surpluses, profits, or losses, as the case may be, to be taken or borne by the parties that are local authorities, public bodies, Government departments, or the Crown (or any combination of them) is 50 percent or more of the net costs, surpluses, profits, or losses, as the case may be; or

“(b) In any other case, either the Audit Office or a member of the New Zealand Society of Accountants as may be determined by the parties to the contract or arrangement.”

*New clause 5A:* To insert, after clause 5, at the foot of page 4, the following clause:

**5A. Stopping and temporary closing of roads**—(1) Section 342 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by repealing paragraph (b) of subsection (1), and substituting the following paragraph:

“(b) Close any road to traffic or any specified type of traffic (including pedestrian traffic) on a temporary basis in accordance with that Schedule and impose or permit the imposition of charges as provided for in that Schedule.”

(2) Section 342 of the principal Act (as so enacted) is hereby amended by repealing subsection (2).

(3) Section 342A of the principal Act (as enacted by section 7 (1) of the Local Government Amendment Act 1979) is hereby amended by adding to subsection (1) the words “(including pedestrian traffic)”.

*New clause 9A:* To insert, after clause 9, at line 26 on page 7, the following clause:

**9A. Amendments relating to prohibition of traffic on roads**—(1) The Tenth Schedule to the principal Act (as enacted by section 3 (1) of the Local Government Amendment Act 1978) is hereby amended by repealing clause 11, and substituting the following clauses:

“11. The council may, subject to such conditions as it thinks fit (including the imposition of a reasonable bond), and after consultation with the Police and the Ministry of Transport, close any road or part of a road to all traffic or any specified type of traffic (including pedestrian traffic)—

“(a) While the road, or any drain, water race, pipe, or apparatus under, upon, or over the road is being constructed or repaired; or

“(b) Where, in order to resolve problems associated with traffic operations on a road network, experimental diversions of traffic are required; or

“(c) During a period when public disorder exists or is anticipated; or

“(d) When for any reason it is considered desirable that traffic should be temporarily diverted to other roads; or

“(e) For a period or periods not exceeding in the aggregate 31 days in any year for any exhibition, fair, show, market, concert, film-making, race or other sporting event, or public function:

“Provided that no road may be closed for any purpose specified in paragraph (e) of this clause if that closure would, in the opinion of the council, be likely to impede traffic unreasonably.

“11A. The council shall give public notice of its intention to consider closing any road or part of a road under clause 11 (e) of this Schedule; and shall give public notice of any decision to close any road or part of a road under that provision.

“11B. Where any road or part of a road is closed under clause 11 (e) of this Schedule, the council or, with the consent of the council, the promoter of any activity for the purpose of which the road has been closed may impose charges for the entry of persons and vehicles to the area of closed road, any structure erected on the road, or any structure or area under the control of the council or the promoter on adjoining land.

“11C. Where any road or part of a road is closed under clause 11 (e) of this Schedule, the road or part of a road shall be deemed for the purposes of—

“(a) The Transport Act 1962 and any bylaws made under section 72 of that Act:

“(b) The Traffic Regulations 1976:

“(c) The Transport (Drivers Licensing) Regulations 1985:

“(d) The Transport (Vehicle and Driver Registration and Licensing) Act 1986:

“(e) The Transport (Vehicle Registration and Licensing) Notice 1986:

“(f) Any enactment made in substitution for any enactment referred to in paragraphs (a) to (e) of this clause— not to be a road; but nothing in this clause shall affect the status of the road or part of a road as a public place for the purposes of this or any other enactment.”

(2) The Tenth Schedule to the principal Act is hereby amended by inserting in clause 16, after paragraph (a), the following paragraph:

“(aa) Without the consent of the council or the promoter of any activity permitted by the council, enter or attempt to enter, or be present, on any road or part of a road that is for the time being closed to pedestrian traffic pursuant to clause 11 of this Schedule; or”

*New clause 11:* To insert, after clause 10, at the foot of page 7, the following clause:

**11. Savings**—The repeal by section 13 of the Local Government Amendment Act 1986 of section 8 of the Harbours Amendment Act 1977 and section 12 (3) of the Electoral Amendment Act 1983 shall not affect the amendments made by those sections, and those amendments shall remain in force and continue to be of full effect.

*Schedule:* To omit the amendment in the second column relating to the Electric Power Boards Act 1925 from page 8, and substitute the following:

By omitting from subsection (1) and subsection (2) of section 43 (as substituted by Part II of the Third Schedule to the Local Government Amendment Act 1985) the words “chairmen of standing committees”, and substituting the words “Deputy Chairman, chairmen of standing or special committees”.

## EXPLANATORY NOTE

*New clause 1A:* The effect of this amendment is that the members of the Local Government Commission, will have their remuneration determined by the Higher Salaries Commission. At present, that remuneration is determined under the Fees and Travelling Allowances Act 1951. That Act will continue to apply in respect of travelling allowances and travelling expenses of members and the remuneration and travelling allowances and travelling expenses of deputy members, temporary members, and conciliators who are not members of the Commission.

*New clause 4A:* This clause substitutes a new section 214B of the Act which relates to determinations of annual allowances and remuneration by the Minister of Local Government and the appropriate Minister for office holders and members of local authorities.

The changes are that the determinations may provide that—

- Deputy Chairmen may be paid remuneration as well as or instead of annual allowances:
- Ordinary members may be paid annual allowances as well as or instead of remuneration.

In addition, conditions may be imposed in respect of all annual allowances and remuneration, not just the remuneration of ordinary members as at present.

Conditions may also be imposed relating to circumstances in which a person may receive annual allowances or remuneration in different capacities.

A Chairman may receive only an annual allowance in that capacity, and may not receive annual allowances or remuneration as a chairman of a standing or special committee or as a member of the local authority.

Local authorities are given power to impose conditions relating to the payment of annual allowances and remuneration that are not inconsistent with the Act or any conditions determined by the Minister.

Subsection (2) of the former section 214B (which required that determinations be made having due regard to changes made by the Higher Salaries Commission) is amended to allow the Minister to take into account such other matters as he considers relevant (see new *subsection (4)*).

Subsection (4) of the former section 214B (which required relativities between various classes of local authorities to be maintained) is repealed.

*Clause 5:* This amendment relates to the preparation of accounts and auditing procedures for combined operations. Where 50 percent or more of the financial involvement is that of local authorities, public bodies, Government departments, or the Crown the accounts must be audited by the Audit Office. In other cases the parties to the contract or arrangement may choose either the Audit Office or other auditors.

*New clauses 5A and 9A:* These clauses change the powers of a council to close roads temporarily for certain events. The changes are:

- It is made clear that roads can be closed to pedestrians as well as vehicles and that conditions (including bonds) can be imposed by councils:
- Councils may only close roads after consultation with the Police and the Ministry of Transport:
- Film-making, races, and other sporting events are included in the categories of activities for which a road may be closed for not more than 31 days in any year:
- The present provision that a road may not be closed if the use of the road would be likely to impede traffic is changed. It seems that traffic must inevitably be impeded at least to some extent. It is also considered that it is the closure of the road, rather than its subsequent use for some purpose, that impedes traffic. The provision is therefore changed to provide that the road may not be closed if the closure would be likely to impede traffic unreasonably:
- The council must give public notice of its intention to consider closing any road for any exhibition, fair, show, market, concert, film-making, race or other sporting event, or public function; and must give public notice of any decision to close any road for any of those purposes:
- The council or, with the consent of the council, the promoter of any activity for which the road is closed may impose charges for the entry of persons or vehicles to the closed area, any structure on the road, or any structure or area under the control of the council or the promoter on adjoining land:
- Roads closed under clause 11 (e) of the Tenth Schedule are deemed not to be roads for certain purposes, but their status as public places are not affected.

The effect of this is that, for example, racing vehicles and their drivers will not have to comply with traffic laws, but retention of public place status means that provisions in the Summary Offences Act 1981 such as offences relating to offensive or disorderly behaviour will continue to apply, and the presence of liquor in the area can be controlled by provisions such as section 709A of the Local Government Act 1974.

*New clause 11:* The effect of this clause is to preserve the effect of amendments made by 2 provisions that were repealed by the Local Government Amendment Act 1986.

*Schedule:* This amendment enables the remuneration and allowances payable to Deputy Chairmen of Electric Power Boards to be on the same basis as Chairmen and other members of Electric Power Boards.