

House of Representatives

Supplementary Order Paper

Tuesday, 23 February 2021

Local Government (Rating of Whenua Māori) Amendment Bill

Proposed amendments

Hon Nanaia Mahuta, in Committee, to move the following amendments:

Clause 2

Replace *clause 2(a)(i)* (page 4, line 8) with:

- (i) **sections 6 to 8:**
- (ia) **section 9(1):**

After *clause 2(a)(vi)* (page 5, after line 1), insert:

- (via) **sections 50B to 50N:**
- (vib) **section 500(1)**
- (vic) **sections 50P and 50Q:**
- (vid) **sections 50T to 52:**

After *clause 2(a)(vii)* (page 5, after line 2), insert:

- (viii) **sections 57B to 57J:**
- (ix) **sections 57L to 57O:**
- (x) **sections 57Q and 57R:**

Clause 26

In the heading to *clause 26*, replace “**Content**” (page 9, line 29) with “**Contents**”.

In *clause 26*, replace “(5)” (page 9, line 31) with “(4A)”.

New clause 36AA

After *clause 36* (page 12, after line 7), insert:

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36AA Section 75A amended (Unpaid levy under Infrastructure Funding and Financing Act 2020)

In section 75A(2), replace “Sections 63” with “**Sections 62A**”.

Clause 46, new section 98B

In *clause 46, new section 98B(d)*, replace “, and any residual rating area,” (page 15, line 31) with “and any residual rating area”.

Clause 50

In *clause 50(3), new clause 13B* of Schedule 1, after “Act” (page 19, line 34), insert “1993”.

New clauses 50A to 50W and cross-heading

Before *clause 51* (page 20, before line 31), insert:

Amendments to Infrastructure Funding and Financing Act 2020

50A Amendments to Infrastructure Funding and Financing Act 2020

Sections 50B to 50W amend the Infrastructure Funding and Financing Act 2020.

50B Section 7 amended (Interpretation)

(1) In section 7(1), definition of **levypayer**, after “rating unit”, insert “or separate rating area”.

(2) In section 7(1), insert in its appropriate alphabetical order:

separate rating area means land that has become a separate rating area under **section 98A** of the Local Government (Rating) Act 2002

50C Section 37 amended (Who must pay levy)

(1) After section 37(1), insert:

(1A) The ratepayer for a separate rating area is liable to pay all levy that is due on the separate rating area.

(2) In section 37(2)(a), after “62,”, insert “**62A,**”.

(3) After section 37(2)(b), insert:

(c) the ratepayer for a rating unit is not liable for any levy due on any separate rating area in the rating unit.

50D Section 51 amended (Responsible SPV may correct annual levy resolution)

(1) In section 51(1)(b), after “rating unit”, insert “or separate rating area”.

- (2) In section 51(4), after “rating unit”, insert “or separate rating area” in each place.

50E Section 57 amended (When SPV recovers unpaid levy)

In section 57(1)(a) and (b), after “rating unit”, insert “or separate rating area”.

50F Section 58 amended (Levy is charge against rating unit)

In section 58, insert as subsection (2):

- (2) **Subsection (1)** does not apply in respect of a levy due on a separate rating area.

50G Section 59 amended (Invalidity of levy not ground for refusal to pay levy)

In section 59, after “rating unit”, insert “or separate rating area”.

50H Section 61 amended (Rating information database)

In section 61(1),—

- (a) after “rating units”, insert “and separate rating areas”; and
- (b) replace “the unit” with “any rating unit or separate rating area” in each place.

50I Section 65 amended (Rates records and objections, etc, to rates records)

In section 65(1), after “rating unit”, insert “and separate rating area”.

50J Section 68 amended (Assessment of levy liability)

In section 68(2),—

- (a) after “rating unit”, insert “or separate rating area”; and
- (b) replace “that unit” with “the rating unit or separate rating area”.

50K Section 69 replaced (Rating units in common ownership)

Replace section 69 with:

69 When responsible levy authority must treat 2 or more rating units as 1 unit for assessing levy

The responsible levy authority must treat 2 or more rating units as 1 unit for assessing levy if the rating units are treated as 1 unit under section 20 or **20A** of the Local Government (Rating) Act 2002.

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50L Section 70 amended (Levy assessment notified to levypayer)

In section 70(1) and (2), after “rating unit”, insert “or separate rating area”.

50M Section 71 amended (Information in levy assessment)

Replace section 71(2) with:

- (2) The following sections of the Local Government (Rating) Act 2002 apply to a rates assessment that includes levy liability:
- (a) section 45 (contents of rates assessment): and
 - (b) **section 98C** (contents of rates assessment for separate rating area).

50N Section 73 amended (Further processes for levy assessment and levy invoice)

After section 73(d), insert:

- (e) **section 98B** (apportionment of rates for separate rating areas):
- (f) **section 98D** (when separate rating area divided from rating area):
- (g) **section 98E** (how separate rating area ceases to be a separate rating area).

50O Section 77 amended (Levy remission and levy postponement policies relating to Maori freehold land)

- (1) In section 77(1), after “rating units”, insert “or separate rating areas”.

(2) After section 77(1), insert:

- (1A) **Section 114A** of the Local Government (Rating) Act 2002 (remission of rates for Māori freehold land under development) applies to a levy under this Act.
- (1B) However, the responsible levy authority may remit a levy under **section 114A** of the Local Government (Rating) Act 2002 only with the consent of the responsible SPV.

50P Section 78 amended (Remission of levy)

In section 78(1) and (3)(a), after “rating unit”, insert “or separate rating area”.

50Q New section 79A and cross-heading inserted

After section 79, insert:

Write-off of levy

79A Write-off of levy

- (1) This section applies if—
 - (a) there is an unpaid levy under this Act in respect of a rating unit or separate rating area; and
 - (b) the chief executive of the responsible levy authority intends to write off rates in respect of that unit or separate rating area under **section 90A or 90B** of the Local Government (Rating) Act 2002.
- (2) The responsible levy authority must notify the responsible SPV—
 - (a) that the chief executive will write off the rates; and
 - (b) whether the chief executive is doing so on an application under **section 90A(2)(b)** of the Local Government (Rating) Act 2002.
- (3) On receiving the notice, the responsible SPV may write off any unpaid levy—
 - (a) that the responsible SPV considers cannot reasonably be recovered; or
 - (b) to which **section 90B(1)(a) and (b)** of the Local Government (Rating) Act 2002 applies.
- (4) The responsible SPV must—
 - (a) notify a levypayer of any write-off of the levypayer's levy under this section; and
 - (b) within 30 days of receiving a notice under **subsection (2)(b)** that the chief executive will write off rates on the application of a ratepayer under **section 90A(2)(b)**, provide written reasons to the levypayer for the decision to write off, or not to write off, the levypayer's levy.

50R Section 82 amended (Recovery action generally)

After section 82(2)(b), insert:

- (ba) **section 62A** (person actually using certain abandoned general land liable for rates):

50S Section 83 amended (Legal proceedings to recover levy)

In section 83(2), replace “Sections 63” with “**Sections 62A**”.

50T Section 91 amended (Excess levy at end of levy period)

In section 91(2)(a), after “rating unit”, insert “or separate rating area”.

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50U Section 95 amended (Responsible levy authority to inform responsible SPV about previous contributions)

In section 95(2)(c), after “rating units”, insert “or separate rating areas”.

50V Section 96 amended (Responsible SPV may direct responsible levy authority to transfer previous contributions and remit levies)

In section 96(1)(b), after “rating unit”, insert “or separate rating area”.

50W Section 97 amended (Responsible levy authority must refund or return previous contributions if no direction)

In section 97, after “rating unit”, insert “or separate rating area” in each place.

Clause 51

In *clause 51*, replace “**Section 52** amends” (page 20, line 32) with “**Sections 52 and 52A** amend”.

New clause 52A

After *clause 52* (page 21, after line 32), insert:

52A Schedule 1AA amended

In Schedule 1AA, after clause 21, insert the **Part 4** set out in **Schedule 2** of this Act.

New clauses 57A to 57Q and cross-heading

After *clause 57* (page 22, after line 14), insert:

Amendments to Urban Development Act 2020

57A Amendments to Urban Development Act 2020

Sections 57B to 57Q amend the Urban Development Act 2020.

57B Section 185 amended (Who must pay rates?)

- (1) In section 185(1), after “rating unit”, insert “or separate rating area” in each place.
- (2) In section 185(2), after “62,”, insert “**62A**,”.

57C Section 189 amended (Procedure for setting rates)

Replace section 189(5)(a) with:

- (a) sections 20 (rating units in common ownership), **20A** (rating units of Māori freehold land used as a single

unit), and 22 (defence land) of the Local Government
(Rating) Act 2002:

57D Section 190 amended (Kāinga Ora may set rates again within same financial year)

- (1) In section 190(1)(b), after “rating unit”, insert “or separate rating area”.
- (2) In section 190(4), after “rating unit”, insert “or separate rating area” in each place.

57E Section 192 amended (Due date or dates for payment)

In section 192,—

- (a) after “rating unit”, insert “or separate rating area”; and
- (b) after “that unit”, insert “or area”.

57F Section 194 amended (When excess rates are refunded to ratepayers)

- (1) In section 194(3)(a), after “rating units”, insert “or separate rating areas”.
- (2) In section 194(3)(b), after “rating unit”, insert “or separate rating area”.

57G Section 201 amended (Notice of rates assessment)

In section 201(1) and (3), after “rating unit”, insert “or separate rating area” in each place.

57H Section 202 amended (Contents of rates assessment)

In section 202(1)(c) and (d), after “rating unit”, insert “or separate rating area”.

57I Section 203 amended (Rates invoice)

- (1) In section 203(1), after “rating unit”, insert “or separate rating area” in each place.
- (2) In section 203(3)(a) and (d), after “rating unit”, insert “or separate rating area”.

57J Section 205 amended (When Kāinga Ora may recover unpaid rates)

- (1) In section 205(1)(a) and (3)(b), after “rating unit”, insert “or separate rating area”.
- (2) In section 205(1)(b), replace “the unit” with “the rating unit or separate rating area”.

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57K Section 206 amended (Application of Local Government (Rating) Act 2002: calculation, payment, and recovery)

In section 206(1)(j), replace “and 62” with “to **section 62A**”.

57L Section 207 amended (Remission of rates)

In section 207(1), after “rating unit”, insert “or separate rating area”.

57M Section 208 amended (Recording remitted rates)

In section 208(a), after “rating unit”, insert “or separate rating area”.

57N Section 209 amended (Postponement of requirement to pay rates)

In section 209(1), after “rating unit”, insert “or separate rating area”.

57O New section 210A and cross-heading inserted

After section 210, insert:

Write-off of rates

210A When Kāinga Ora may write off targeted rates

- (1) This section applies if—
 - (a) there is an amount of targeted rates under this Act that is unpaid for a rating unit or separate rating area; and
 - (b) the chief executive of the relevant territorial authority intends to write off rates in respect of that unit under **section 90A or 90B** of the Local Government (Rating) Act 2002.
- (2) The relevant territorial authority must notify Kāinga Ora—
 - (a) that the chief executive will write off the rates; and
 - (b) whether the chief executive is doing so on an application under **section 90A(2)(b)** of the Local Government (Rating) Act 2002.
- (3) On receiving the notice, Kāinga Ora may write off any unpaid targeted rates—
 - (a) that Kāinga Ora considers cannot reasonably be recovered; or
 - (b) to which **section 90B(1)(a) and (b)** of the Local Government (Rating) Act 2002 applies.
- (4) Kāinga Ora must—
 - (a) notify a ratepayer of any write-off of the ratepayer’s targeted rates under this section; and

- (b) within 30 days of receiving a notice under **subsection (2)(b)** that the chief executive will write off rates on the application of a ratepayer under **section 90A(2)(b)**, provide written reasons to the ratepayer for the decision to write off, or not to write off, the ratepayer’s targeted rates.

57P Section 211 amended (Application of Local Government (Rating) Act 2002: rating of Māori freehold land)

After section 211(2), insert:

- (2A) A relevant territorial authority may remit targeted rates under **section 114A** of the Local Government (Rating) Act 2002 only with the consent of Kāinga Ora.

57Q Section 212 amended (Rating information database to include information on targeted rates)

In section 212,—

- (a) after “rating unit”, insert “or separate rating area”; and
(b) replace “the unit” with “the rating unit or separate rating area” in each place.

57R Section 213 amended (Rates records to include information on targeted rates)

In section 213,—

- (a) after “rating unit”, insert “or separate rating area”; and
(b) replace “that unit” with “the rating unit or separate rating area”.

New Schedule 2

After the *Schedule* (page 23, after line 27), insert as Schedule 2:

Schedule 2
New Part 4 inserted in Schedule 1AA of Local Government
Act 2002

s 52A

Part 4
Provisions relating to Local Government (Rating of Whenua Māori) Amendment Act 2020

- 22 Delayed effective date of requirement for certain funding and financial policies to support principles in Preamble to Te Ture Whenua Maori Act 1993**
- (1) **Section 102(3A)** (as inserted by **section 52** of the Local Government (Rating of Whenua Māori) Amendment Act **2020**) does not apply to any policy adopted before the effective date for the relevant policy.
- (2) The policies referred to in **section 102(3A)** must—
- (a) be reviewed for compliance with that section by the effective date for the relevant policy; and
 - (b) be amended or replaced as required in order to achieve compliance with that section on or before the effective date.
- (3) If a local authority amends its revenue and financing policy under section 93(4) before 1 July 2024 solely for the purpose of complying with **section 102(3A)**, the amendment is not required to be audited in accordance with sections 93D(4) and 94.
- (4) In this clause,—
- commencement date** means the commencement of **section 52** of the Local Government (Rating of Whenua Māori) Amendment Act **2020**
- effective date** means,—
- (a) for a revenue and financing policy adopted under section 102(1), 1 July 2024;
 - (b) for a policy on development contributions or financial contributions adopted under section 102(1), the date of the completion of the first review of the policy in accordance with section 106(6) that commenced after the commencement date;
 - (c) for a policy on the remission and postponement of rates on Māori freehold land adopted under section 102(1), 1 July 2022;
 - (d) for any rates remission policy or rates postponement policy adopted under section 102(3), the earlier of—
 - (i) 1 July 2024; and
 - (ii) the date of the completion of the first review of the policy under section 109(2A) or 110(2A) that commenced after the commencement date.

Explanatory note

This Supplementary Order Paper sets out proposed amendments to the Local Government (Rating of Whenua Māori) Amendment Bill (the **Bill**).

The amendments—

- extend the application of the amendments in the Bill to 2 Acts that were enacted after this Bill was reported back to the House by the Māori Affairs Committee on 3 August 2020 (the Urban Development Act 2020 and the Infrastructure Funding and Financing Act 2020); and
- delay the effective date of *new section 102(3A)* of the Local Government Act 2002 (as inserted by *clause 52* of the Bill), which will require certain funding and financing policies of local authorities to support the principles set out in the Preamble to Te Ture Whenua Maori Act 1993. This delayed effective date will provide local authorities with a transitional period to review the relevant policies for compliance and amend or replace them as necessary to achieve compliance by,—
 - in the case of a local authority’s revenue and financing policy adopted under section 102(1) of the Local Government Act 2002, 1 July 2024;
 - in the case of a local authority’s policy on development contributions or financial contributions, the date of the completion of the first review of the policy commenced after 1 July 2021;
 - in the case of a local authority’s policy on the remission and postponement of rates on Māori freehold land, 1 July 2022;
 - in the case of any rates remission policy or rates postponement policy of a local authority, the earlier of 1 July 2024 and the date of the completion of the first review of the policy commenced after 1 July 2021; and
- make other minor and technical drafting changes.

Departmental disclosure statement

The Department of Internal Affairs considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.