

Local Government Act 2002 Amendment Bill (No 2)

Government Bill

Explanatory note

General policy statement

The Local Government Act 2002 Amendment Bill (No 2) implements a set of reforms to enable improved service delivery and infrastructure provision arrangements at the local government level. The Bill contributes to the delivery of key government priorities to deliver better public services and build a more productive and competitive economy.

New Zealand's local authorities need to adapt their governance arrangements and structures to lift performance and respond to emerging challenges. Councils need more options to co-ordinate and combine networks and scarce resources across regions and towns, especially for large-scale infrastructure. However, current models and the existing council reorganisation process are not flexible enough.

Current arrangements limit councils' ability to adequately respond to and provide for regional and sub-regional economic and population dynamics while remaining responsive to local preferences. As a result, some services are provided suboptimally because of lack of scale, integration, and strategic oversight across local government jurisdictions.

The current legislation provides only limited support for shared and integrated services, which is insufficient to enhance scale and capability for water, transport, economic development and other activities. This Bill provides for a broader range of functions to be transferred between local authorities, joint governance arrangements for areas of common or shared interest, and greater use of joint council-controlled organisations (CCOs) for providing services. New models introduced in the Bill include water services CCOs with statutory powers and 2 pre-approved models for transport CCOs, as well as bespoke transport CCOs subject to approval from the Minister of Transport.

The Local Government Act 2002 (the **Act**) currently allows the Local Government Commission (the **Commission**) to respond to applications for reorganisation submit-

ted by councils or members of the community, but it cannot initiate investigations. This Bill provides discretionary powers to the Commission to enable it to decide what investigations it will undertake. This will be either on its own initiative or in response to a request from the Minister of Local Government, local authorities, or members of the public.

The increased powers of the Commission in the Bill are accompanied by appropriate checks and balances. The Commission will have to follow statutory guidance for reorganisations. It will be guided by criteria about what it investigates, the processes by which it does so (including public engagement), and what it seeks to achieve. The use of polls will remain if the Commission proposes to abolish, constitute, or amalgamate local authorities. Polls will also be introduced for a major transfer of water, transport, or Resource Management Act 1991 functions from one local authority to another.

Currently, the Act does not allow local authorities to take responsibility for developing, refining, and consulting on reorganisation proposals. The Bill includes a provision for local authority-led reorganisations, with the objective of securing the support of all affected local authorities and communities, and endorsement by the Commission. This will be available for all types of reorganisation, including the establishment of multiply owned CCOs, joint governance arrangements, transfers of powers, boundary changes, and amalgamations.

There is also scope for better, more streamlined regional services and arrangements that will provide better value for money for citizens. The Bill will enable the Commission, as part of a reorganisation, to provide for—

- the same local authority to act as a unitary authority (as both territorial authority and regional council) in one district and as regional council only in another district that has its own territorial authority; and
- a local authority to exercise specified council functions, powers, duties, and responsibilities within the district or region of another local authority.

The Commission will be able to provide for ongoing committees or other governance mechanisms to ensure appropriate representation and accountability under such arrangements.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=144>

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 2 March 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement and provides that, with the exception of *clause 40*, the Bill comes into force on the day after the date of Royal assent. *Clause 40* amends the Local Government (Auckland Council) Act 2009 and relates to capital charging by an Auckland water organisation. It comes into force 18 months after the date of Royal assent.

Clause 3 provides that the principal Act amended by this Bill is the Local Government Act 2002.

Clause 4 amends section 5, which is the interpretation section. New definitions are inserted of the terms corporate accountability information, non-statutory function, permanent committee, reorganisation implementation scheme, and reorganisation plan. Cross references are also added to the new definitions inserted into section 6 by *clause 5*, and the definition of unitary authority is consequentially amended.

Clause 5 amends section 6, which is an interpretation provision that defines the meaning of council-controlled organisation and council organisation. The amendment adds new definitions of substantive council-controlled organisation, multiply owned council-controlled organisation, water services council-controlled organisation, and transport services council-controlled organisation.

Clause 6 amends section 16, which sets out the process that must be followed where a regional council or regional council-controlled organisation proposes to undertake a significant new activity where 1 or more territorial authorities in the region are already undertaking that activity or have notified an intention to do so. The amendment makes the Local Government Commission (the **Commission**) responsible for resolving disputes about such proposals.

Clause 7 amends section 17, which relates to the transfer of responsibilities between regional councils and territorial authorities. The amendments—

- list the matters that must be had regard to when assessing the benefits and negative impacts of a transfer proposal (being the same matters that must be had regard to by the Commission when investigating a local government reorganisation):

- allow responsibilities conferred on a local authority by or under another Act to be transferred if that other Act anticipates the use of section 17.

Clause 8 replaces section 24AA, which sets out the purpose of the local government reorganisation provisions. The section is amended to align with the changed role and powers of the Commission, including the new provisions that facilitate local authority-led reorganisations and provide for the Commission to proactively initiate reorganisations. *New section 24AA* states that the purpose of the reorganisation provisions is to promote good local government by enabling and facilitating improvements to local governance and the provision of infrastructure and services.

Clause 9 replaces section 24. New matters are added that will be within the scope of local government reorganisations, including—

- the establishment and disestablishment of council-controlled organisations;
- the exercise of statutory responsibilities, duties, and powers by water services council-controlled organisations and transport services council-controlled organisations;
- the establishment of joint committees and the delegation of responsibilities, duties, and powers to those committees.

Clause 10 amends section 24A, which authorises the extension or postponement of certain statutory requirements after public notice of a reorganisation plan is given, but before the fate of the reorganisation plan is known. The period during which an Order in Council extending or postponing the requirements may be made is reduced from 9 months to 6 months. Other consequential amendments to update terminology and cross references are also made.

Clause 11 replaces section 25 (which sets out the process for a final proposal and reorganisation implementation scheme to be given effect by Order in Council) with *new sections 25 and 25A*. The replacement sections update terminology and separate out the process to implement a reorganisation plan (*new section 25*) and a reorganisation implementation scheme (*new section 25A*). *New section 25(2)* provides that the Minister must recommend an Order in Council to implement a reorganisation plan unless the Minister is satisfied, on reasonable grounds, that the process to develop the plan was not in accordance with the Act or failed to give proper weight to the principles, considerations, and criteria in the Act. *New section 25A(1)(a)* requires an Order in Council to implement a reorganisation implementation scheme to be made on the recommendation of the Minister.

Clause 12 makes consequential amendments to section 26, which gives the Commission power to amend reorganisation plans and reorganisation implementation schemes.

Clause 13 amends section 26A, which sets out the duties of local authorities in relation to local government reorganisations. The amendments update terminology and add new requirements for a local authority to—

- make publicly available any report or recommendation it receives from the Commission; and

- consider and respond to the Commission's report or recommendation; and
- make that response publicly available.

Clause 14 makes a consequential amendment to section 27 (which relates to applications to be called a city council or district council) to update the terminology to align with this Bill.

Clause 15 repeals section 31(1A), which empowers the Commission to report to the Minister and to any relevant local authority on any matter that arises in the performance of the Commission's functions and the exercise of its powers under Schedule 3. This subprovision is redundant as a consequence of the insertion of *new clause 10* in Schedule 3 (*see Schedule 2*).

Clause 16 replaces section 31A. The replacement section empowers the Minister to give a notice to the Commission that sets out the Minister's expectations in relation to the Commission's performance of its functions and exercise of its powers in a financial year. The Commission must take that notice into account in developing its statement of intent and annual work programme, and must report to the Minister on the extent to which it has met those expectations. *New section 31A* specifies the matters that may be included in a Minister's notice of expectations as follows:

- any issues, problems, opportunities, or reorganisation objectives that must be regarded by the Commission as having a high priority for investigation:
- any geographic area or areas that must be regarded by the Commission as having a high priority for investigation:
- any matters or geographic areas that must not be the subject of an investigation by the Commission.

Clause 17 inserts *new sections 31B to 31H*, which do the following:

- require the Commission to provide a statement of intent at least once in every 3-year period (*new section 31B*):
- require the Commission to prepare and adopt a work programme each financial year (*new section 31C*):
- authorise the Minister to issue a written direction to the Commission requiring the Commission to have regard to a Government policy that relates to the Commission's work responsibilities, duties, and powers under Schedule 3 (being the schedule that relates to reorganisation initiatives and investigations) (*new section 31D*):
- authorise the Minister to review the operations and performance of the Commission (*new section 31E*):
- require the Commission to provide annual reports to the Minister (*new section 31F*) and specify the form and content of those annual reports (*new section 31G*):
- set out the process that must be followed when disputes are referred to the Commission for resolution (*new section 31H*).

Clause 18 amends section 33, which establishes the membership of the Commission. The amendment changes the requirement that the Commission consist of 3 members to a requirement that the Commission consist of a minimum of 3 members and a maximum of 5 members.

Clause 19 inserts *new section 35A*, which sets out how the Official Information Act 1982 applies to the Commission. Documents created or received in the course of an investigation, the resolution of a dispute, or the determination of an appeal or objection are not official information until the investigation, resolution, or determination has been completed.

Clause 20 amends section 48R (which relates to disputes about the allocation of decision-making responsibilities or proposed bylaws) to reflect the fact that *new section 31H* sets out the process for the Commission to resolve disputes.

Clause 21 repeals section 48S(1) to (5), which relate to the Commission determining disputes. The content of these subsections is now covered by *new sections 31H and 48R(4)*. The title of section 48S is consequentially amended to reflect the subsections that remain.

Clause 22 inserts *new sections 56A to 56W*, which relate to council-controlled organisations.

New section 56A provides that a local authority that is proposing to become a shareholder in a multiply owned council-controlled organisation that will deliver water or transport services, must obtain the written agreement of the Commission before starting consultation on the proposal.

New section 56B requires local authorities that establish a multiply owned council-controlled organisation to each be responsible for complying with the requirements of the Act in respect of the establishment of that organisation. If there is a dispute in this regard, the matter can be referred to the Commission for resolution.

New sections 56C and 56D set out the content that is required in a council-controlled organisation's service delivery plan and infrastructure strategy respectively.

New section 56E provides that a council-controlled organisation's shareholders must approve the organisation's service delivery plan and infrastructure strategy before those documents are adopted, and sets out the time by which the documents must be adopted.

New sections 56F to 56L relate to water services council-controlled organisations and provide that—

- local authorities must directly own their interests in any water services council-controlled organisation (*new section 56F*):
- a water services council-controlled organisation must have a service delivery plan and infrastructure strategy (*new section 56G*):
- a water services council-controlled organisation must not pay a dividend or distribute any surplus to its shareholders (*new section 56H*):

- a water services council-controlled organisation may perform or exercise any of the responsibilities, duties, and powers listed in *new Schedule 8A* that are conferred on it by Order in Council (*new section 56I*):
- the shareholding local authorities of a multiply owned water services council-controlled organisation must establish a joint committee to propose bylaws, appoint enforcement officers, and approve enforcement actions (*new section 56J*):
- a water services council-controlled organisation may propose that a shareholding local authority make a bylaw relating to the management or supply of water services (*new sections 56K and 56L*).

New sections 56M to 56P relate to transport services council-controlled organisations, and provide that—

- local authorities must directly own their interests in any transport services council-controlled organisation (*new section 56M*):
- a transport services council-controlled organisation must have a service delivery plan and infrastructure strategy (*new section 56N*):
- a transport services council-controlled organisation may perform or exercise any of the responsibilities, duties, and powers listed in *new Schedule 8B* that are conferred on it by Order in Council (*new section 56O*):
- a transport services council-controlled organisation exercising all of the responsibilities, duties, and powers set out in *new Schedule 8B* in respect of 1 or more whole regions is deemed to be approved as a requiring authority for specified purposes relating to the acquisition and disposal of land (*new section 56P(1)*):
- a transport services council-controlled organisation exercising only all of the responsibilities, duties, and powers set out in *Part 1 of new Schedule 8B*, in respect of 1 or more whole regions, is deemed to be approved as a requiring authority for the purposes of constructing and operating roads in the region or regions (*new section 56P(2)*):
- a transport services council-controlled organisation may acquire and dispose of land in accordance with *new section 56Q*.

New sections 56R to 56V relate to substantive council-controlled organisations. A substantive council-controlled organisation is a council-controlled organisation that is wholly owned by 1 or more local authorities (other than the Auckland Council) and that—

- owns or manages assets with a value of more than \$10 million; or
- is a water services council-controlled organisation; or
- is a transport services council-controlled organisation; or
- is agreed by all shareholders to be a substantive council-controlled organisation.

New section 56R provides that the constitution of a substantive council-controlled organisation must not preclude the organisation using any particular form of charging or source of revenue.

New section 56S requires a local authority that is the sole shareholder in a substantive council-controlled organisation to adopt and publish an accountability policy for the organisation.

New section 56T requires local authorities that are shareholders in a multiply owned substantive council-controlled organisation to adopt and publish an accountability policy for the organisation.

New section 56U provides that the shareholders of a substantive council-controlled organisation may require the council-controlled organisation to impose additional accountability requirements on the organisation, including requirements to—

- describe in its statement of intent how the organisation will contribute to the shareholders' and the Government's objectives and priorities;
- report on the organisation's operations during each quarter;
- prepare and adopt a service delivery plan and an infrastructure strategy.

New section 56V requires a substantive council-controlled organisation to give effect to the long-term plans of its shareholding local authorities and to act consistently with other specified plans and strategies.

New section 56W requires the shareholders of a multiply owned substantive council-controlled organisation to establish a joint committee to collectively manage their interests in performing or exercising their responsibilities, duties, and powers as shareholders of the council-controlled organisation.

Clause 23 amends section 57, which relates to the appointment of directors to council-controlled organisations. The amendment adds restrictions that prohibit a person being both a director of a multiply owned substantive council-controlled organisation, and also a member of the governing body, a local board, or a community board of a local authority that is a shareholder in that council-controlled organisation.

Clause 24 inserts *new sections 61A to 61E*, which relate to the financial arrangements and funding of council-controlled organisations.

New section 61A requires local authorities who are shareholders in a multiply owned council-controlled organisation to agree on a formula to determine the contribution to the organisation's annual operating revenue that each shareholder must pay. The formula must be agreed unanimously. If the local authorities cannot reach agreement, 1 or more of them can refer the matter to the Commission for a binding determination.

New section 61B provides that a multiply owned council-controlled organisation must not incur debt except as provided in its service delivery plan or as unanimously agreed by its shareholders. If the organisation has a service delivery plan that provides that the organisation will borrow from its shareholding local authorities, those local authorities must lend that money in accordance with that plan. However, they

may lend a lesser amount if the board of the organisation agrees or a greater amount if all shareholders agree.

New section 61C relates to the funding of substantive council-controlled organisations. It requires organisations to manage their finances in a manner that will enable long-term continuity of service at the levels required in its planning document. It also provides that if an organisation's planning document provides for its shareholding local authorities to contribute operational funding, those local authorities must contribute that funding. However, they may contribute a lesser amount if the board of the organisation agrees, or a greater amount if all shareholders agree. A local authority may also contract the organisation to provide additional services.

New section 61D prevents a substantive council-controlled organisation imposing a capital charge for connection to, or for authority to use, infrastructure or services provided by that organisation (other than a development contribution).

New section 61E prohibits a council-controlled organisation borrowing in foreign currency.

Clause 25 inserts *new sections 63A to 63E*, which establish a process for a substantive council-controlled organisation to require a shareholding territorial authority to amend its development contributions policy to fund capital expenditure by the organisation and provide for council-controlled organisations to enter into development agreements.

New section 63A provides that the organisation must—

- develop a draft amendment to the territorial authority's development contributions policy that contains all the information required by sections 106, 201, 201A, and 202;
- consult on that draft amendment; and
- provide to the territorial authority a summary of the consultation and the outcome.

New section 63B sets out the process to be followed by a territorial authority that receives a proposed amendment to its development contributions policy. The territorial authority must approve the amendment if—

- it relates to capital expenditure that could be funded by a development contribution were it incurred by the territorial authority itself, and
- it contains all the required information; and
- the specified consultation was undertaken; and
- it is accompanied by a summary of the consultation, feedback, and outcomes.

New section 63C sets out the effect of including an amendment. In particular,—

- the council-controlled organisation is responsible for reviewing the part of the development contributions policy that relates to funding its capital expenditure at least once every 3 years, as required by section 106(6):

- subpart 5 of Part 8 (which contains provisions that govern development contributions) applies to the amendment.

New section 63D provides for development agreements to be entered into between—

- a developer and a substantive council-controlled organisation; or
- a developer, a territorial authority, and a substantive council-controlled organisation.

New section 63E requires a local authority that is a shareholder in a council-controlled organisation to allow the board of that organisation a reasonable opportunity to comment on the proposed content of the local authority's long-term plan before it starts the consultation process.

Clause 26 replaces section 64. *New section 64* requires every council-controlled organisation to prepare and adopt a statement of intent. Details of the process for adopting a statement of intent, and requirements as to its contents, are contained in *new Schedule 8*.

Clause 27 amends section 65, which relates to performance monitoring of council organisations. The amendment expands the performance monitoring requirements to include evaluation of the organisation's contribution to the achievement of the results in its service delivery plan and infrastructure strategy. Section 65(2) is repealed as the matter is now addressed in *Part 1 of new Schedule 8*.

Clause 28 amends section 67, which relates to annual reporting by council-controlled organisations. An existing requirement in clause 9(2) of Schedule 8, for a council-controlled organisation to include details in its annual report if it obtains compensation from its shareholders in respect of any activity, is relocated into section 67. Each shareholding local authority is required to publish the council-controlled organisation's annual report on an Internet site, and maintain it on the site for at least 7 years.

Clause 29 amends section 68, which sets out the required content of reports on the operation of council-controlled organisations. The following new requirements are added:

- if the organisation has a service delivery plan, a requirement to report on the achievement of the objectives in that plan; and
- if the organisation has an infrastructure strategy, a requirement to report on progress to implement that strategy.

Clause 30 makes a consequential amendment to section 137, which relates to joint local government arrangements and joint arrangements with other entities. The amendment excludes multiply owned water services council-controlled organisations from the definition of a joint local government arrangement.

Clause 31 amends section 259, which sets out the regulations that may be made under the principal Act. The following new regulation-making powers are added:

- power to prescribe parameters or benchmarks for assessing whether a substantive council-controlled organisation is prudently managing its revenue, expenses, assets, liabilities, investments, and general financial dealings:

- power to prescribe the manner in which a substantive council-controlled organisation must state its planned and actual performance against prescribed parameters and benchmarks:
- power to prescribe the corporate accountability information that a local authority must disclose.

Clause 32 amends section 261A, which sets out the purpose of rules specifying performance measures. The amendment reflects the fact that rules under section 261B may extend to groups of activities delivered by substantive council-controlled organisations.

Clause 33 amends section 261B, which sets out rules that the Secretary must make to specify performance measures in relation to particular activities. A new subsection is added that permits the Minister to direct the Secretary to make rules that specify performance measures relating to groups of activities additional to those currently listed in section 261B(1). The Minister may also direct the Secretary to review existing rules.

Clause 34 and Schedule 1 amend Schedule 1AA, which contains application, savings, and transitional provisions relating to enactments that have amended the Act. The amendment inserts a *new Part 2* into that schedule that contains transitional provisions that relate to the amendments effected by this Bill.

Clause 35 and Schedule 2 amend Schedule 3, which contains provisions that deal with the reorganisation of local authorities. The substantive changes include—

- greater discretion for the Commission in responding to reorganisation requests and proposals, including provision for the Commission to undertake a reorganisation investigation of its own motion (*new subparts 1 and 2 of Part 1 of Schedule 3*):
- flexibility for the Commission to develop, publish, and follow its own process for each reorganisation investigation (*new subpart 2 of Part 1 of Schedule 3*):
- provision for the establishment of water services council-controlled organisations and transport services council-controlled organisations with appropriate statutory powers (*new subpart 1A of Part 2 of Schedule 3*):
- allowing 1 or more local authorities to themselves develop and consult on a reorganisation plan (*new subpart 1B of part 2 of Schedule 3*)
- removing the requirement for electors to petition for polls on plans for major reorganisations, and extending polls to major transfers of functions in some circumstances (*new clause 23 of Schedule 3*).

Clause 36 and Schedule 3 amend Schedule 4, which contains provisions that relate to the Commission and its proceedings. The substantive changes are—

- an amendment to *clause 3* that would permit the Minister to remove a member at any time and for any reason that, in the Minister's opinion, justifies the removal. A removal notice must state the reasons for the removal, and must be notified in the *Gazette*. (This is the same test and process for removing a mem-

ber of an autonomous Crown entity set out in section 37 of the Crown Entities Act 2004.):

- an amendment to *clause 29* that provides for the Commission to appoint a chief executive officer, on conditions agreed between that person and the Commission, and for the chief executive officer to employ staff on behalf of the Commission.

Clause 37 and Schedule 4 replace Schedule 8 (which relates to statements of intent for council-controlled organisations) with *new Schedules 8 to 8B*. *New Schedule 8* relates to statements of intent for council-controlled organisations and sets out the process by which a statement of intent must be adopted, and also the content that is required to be included. Different requirements are set for council-controlled trading organisations and for council-controlled organisations that are not trading organisations.

New Schedule 8A sets out the responsibilities, duties, and powers that may be conferred on a water services council-controlled organisation.

New Schedule 8B sets out the responsibilities, duties, and powers that may be conferred on a transport services council-controlled organisation. The responsibilities, duties, and powers, are set out in 2 Parts. If a reorganisation plan establishes a transport services council-controlled organisation that will have all of the responsibilities, duties, and powers listed in *Schedule 8B*, or all of the responsibilities, duties, and powers listed in *Part 1 of Schedule 8B*, and will apply only in 1 or more entire regions, the Commission does not need to first obtain the agreement of the Minister of Transport to that plan. However, if a reorganisation plan proposes to establish a transport services council-controlled organisation that will have responsibilities, duties, and powers in specified districts only, or will have some only of the responsibilities, duties, and powers listed in *Schedule 8B*, the agreement of the Minister of Transport must first be obtained (*see clause 20A of Schedule 3*).

Clause 38 amends provisions in Schedule 10, which relates to the long-term plans, annual plans, and annual reports, of local authorities.

Clause 39 provides that clauses 40 to 43 amend the Local Government (Auckland Council) Act 2009.

Clause 40 inserts *new section 59A* into the Local Government (Auckland Council) Act 2009, which applies certain provisions of this Bill to an Auckland water organisation. The sections applied are *new section 61D* (which prevents a substantive council-controlled organisation imposing a capital charge), and *new sections 63A to 63D* (which establish a process for a council-controlled organisation to require its territorial authority to amend its development contributions policy to fund capital expenditure by the organisation, and provide for council-controlled organisations to enter into development agreements).

Clauses 41 to 43 amend the Local Government (Auckland Council) Act 2009 to reflect the Commission's general dispute resolution role set out in *new section 31H*.

Clause 44 and Schedule 5 make consequential amendments.

Hon Peseta Sam Lotu-Iiga

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44	Consequential amendments to other enactments	43
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Schedule 1

New Part 2 inserted in Schedule 1AA

Schedule 2

Amendments to Schedule 3

Schedule 3

Amendments to Schedule 4

Schedule 4

Schedule 8 replaced and new Schedules 8A and 8B inserted

Schedule 5

Consequential amendments to other enactments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Act 2002 Amendment Act **(No 2) 2016**.

2 Commencement

- (1) This Act, except **section 40**, comes into force on the day after the date on which it receives the Royal assent. 5
- (2) **Section 40** comes into force on the day that is 18 months after the date on which this Act receives the Royal assent.

Part 1 Amendments to Local Government Act 2002

3 Principal Act

This Act amends the Local Government Act 2002 (the **principal Act**).

4 Section 5 amended (Interpretation) 5

(1) In section 5(1), insert in their appropriate alphabetical order:

corporate accountability information, in relation to a local authority, means information relating to the corporate governance of the local authority and indicators of the overall effectiveness of the local authority in performing its role, and includes the extent to which the local authority satisfies the expectations of citizens and customers 10

multiply owned council-controlled organisation has the meaning set out in section 6(1)

non-statutory function means any activity or service that a local authority is not specifically authorised or required to undertake or provide by or under an enactment 15

permanent committee means a committee of 1 or more local authorities that is established or continued by an enactment and that cannot be disestablished or discharged by the local authority or local authorities

reorganisation implementation scheme has the meaning set out in clause 2 of Schedule 3 20

reorganisation plan has the meaning set out in clause 2 of Schedule 3

substantive council-controlled organisation has the meaning set out in section 6(1)

transport services council-controlled organisation has the meaning set out in section 6(1) 25

water services council-controlled organisation has the meaning set out in section 6(1)

(2) In section 5(1), definition of **unitary authority**, paragraph (b), replace “reorganisation scheme” with “reorganisation plan”. 30

5 Section 6 amended (Meaning of council-controlled organisation and council organisation)

(1) In the heading to section 6, replace “**and council organisation**” with “**and related terms**”.

(2) In section 6(1), insert in their appropriate alphabetical order: 35

multiply owned council-controlled organisation means a council-controlled organisation, other than a council-controlled trading organisation, that is wholly owned, or wholly controlled, by 2 or more local authorities

substantive council-controlled organisation—

- (a) means a council-controlled organisation, other than a council-controlled trading organisation, that is wholly owned, or wholly controlled, by 1 or more local authorities, and that—
- (i) owns or manages assets with a value of more than \$10 million; or 5
 - (ii) is a water services council-controlled organisation; or
 - (iii) is a transport services council-controlled organisation; or
 - (iv) is agreed by all shareholders to be a substantive council-controlled organisation; but
- (b) does not include a substantive council-controlled organisation of the Auckland Council 10

transport services council-controlled organisation means—

- (a) a council-controlled organisation that—
- (i) is wholly owned, or wholly controlled, by 1 or more local authorities; and 15
 - (ii) provides services or undertakes responsibilities relating to local roads, public transport, or land transport planning within the districts or regions of those local authorities, other than under a contract or similar arrangement with 1 or more local authorities; but
- (b) does not include Auckland Transport 20

water services council-controlled organisation means—

- (a) a council-controlled organisation that—
- (i) is wholly owned, or wholly controlled, by 1 or more local authorities; and
 - (ii) provides water services (within the meaning of section 124) in the districts or regions of those local authorities, other than under a contract or similar arrangement with 1 or more local authorities; but 25
- (b) does not include a council-controlled organisation of the Auckland Council 30

6 Section 16 amended (Significant new activities proposed by regional council)

- (1) In section 16(1)(c)(ii), delete “or their annual plans”.
- (2) In section 16(2)(a), replace “Minister” with “Commission”.
- (3) In section 16(4), replace “submit the matter to mediation” with “refer the matter to the Commission for resolution in accordance with **section 31H**”. 35
- (4) Repeal section 16(5) to (7).
- (5) In section 16(8)(d), delete “application”.

- (6) In section 16(9), definition of **affected territorial authority**, paragraph (b), delete “or annual plan”.
- (7) In section 16(9), repeal the definition of **annual plan**.

7 Section 17 amended (Transfer of responsibilities)

- (1) After section 17(3), insert: 5
- (3A) The terms and conditions agreed under subsection (3) must ensure effective provision for any affected co-governance or co-management arrangements that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations.
- (3B) If a local authority is proposing to transfer a responsibility, or accept the transfer of a responsibility, relating to the delivery of water, wastewater, stormwater, or transport services, the local authority must obtain the written agreement of the Commission before commencing the consultation required in subsection (4). 10
- (2) After section 17(4), insert: 15
- (4A) In assessing the benefits and negative impacts of a proposed transfer under subsection (4), a local authority must have regard to the following matters:
- (a) whether the transfer will promote—
- (i) better fulfilment of the purpose of local government:
- (ii) productivity improvements within local authorities and districts or regions: 20
- (iii) efficiencies and cost savings:
- (iv) assurance that the local authorities concerned have the resources necessary to enable them to effectively perform or exercise their responsibilities, duties, and powers: 25
- (v) effective responses to the opportunities, needs, and circumstances of the affected area:
- (vi) enhanced effectiveness, efficiency, and sustainability of local government services:
- (vii) better support for the ability of local and regional economies to develop and prosper: 30
- (viii) enhanced ability of local government to meet the changing needs of communities for governance and services into the future:
- (b) the scale and probability of the potential benefits of the transfer to users of local government services: 35
- (c) the financial, disruption, and opportunity costs of implementing the proposed transfer at the proposed time:
- (d) the consequences and risks of not implementing the proposed transfer at the proposed time:

(e)	existing communities of interest, and the extent to which the proposed transfer will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them.	
(3)	Replace section 17(8) with:	
(8)	In this section, responsibility —	5
(a)	means any responsibility, duty, or legal obligation (including a responsibility, duty, or legal obligation that has previously been transferred under this section), and any powers associated with that responsibility, duty, or legal obligation; but	
(b)	does not include a responsibility, duty, or legal obligation conferred by or under any other Act, unless that Act provides that the responsibility, duty, or legal obligation may be transferred in accordance with this section.	10
8	Section 24AA replaced (Purpose of local government reorganisation)	
	Replace section 24AA with:	15
24AA	Purpose of local government reorganisation provisions	
	The purpose of the local government reorganisation provisions of this Act is to promote good local government by enabling and facilitating improvements to local governance and the provision of infrastructure and services.	
9	Section 24 replaced (Scope of local government reorganisation)	20
	Replace section 24 with:	
24	Scope of local government reorganisation	
(1)	Local government reorganisation may provide for 1 or more of the following matters:	
(a)	the union of districts or regions:	25
(b)	the constitution of a new district or region, including the constitution of a new local authority for that district or region:	
(c)	the abolition of a district or region, including the dissolution or abolition of the local authority for that district or region:	
(d)	the alteration of the boundaries of any district or region:	30
(e)	the transfer from one local authority to another of—	
(i)	a responsibility, duty, or power conferred by an enactment; or	
(ii)	a non-statutory function:	
(f)	the assumption by a territorial authority of the responsibilities, duties, and powers of a regional council as a unitary authority:	35
(g)	the performance and exercise by a local authority of both—	

- (i) the responsibilities, duties, and powers of a regional council in respect of a region; and
- (ii) the responsibilities, duties, and powers of a territorial authority in respect of a district that constitutes a part only of that region:
- (h) the establishment of a council-controlled organisation including, without limitation,— 5
 - (i) a multiply owned council-controlled organisation; or
 - (ii) a substantive council-controlled organisation:
- (i) the disestablishment of a council-controlled organisation that is wholly owned by 1 or more local authorities: 10
- (j) a change in the shareholding of an existing council-controlled organisation that is wholly owned by 1 or more local authorities to add 1 or more local authorities:
- (k) the exercise by a water services council-controlled organisation of any or all of the responsibilities, duties, and powers listed in **Schedule 8A**: 15
- (l) the exercise by a transport services council-controlled organisation of any or all of the responsibilities, duties, and powers listed in **Schedule 8B**:
- (m) the establishment of 1 or more committees of a local authority and the delegation of responsibilities, duties, and powers to those committees: 20
- (n) the establishment of 1 or more joint committees and the delegation of responsibilities, duties, and powers to those committees:
- (o) the establishment of a local board area, including the establishment of a local board for that area:
- (p) in relation to a local board, other than a local board established under the Local Government (Auckland Council) Act 2009,— 25
 - (i) the means by which the chairperson is elected; and
 - (ii) whether the local board may include appointed members:
- (q) the abolition of a local board area:
- (r) the alteration of the boundaries of a local board area: 30
- (s) the union of 2 or more local board areas.
- (2) Schedule 3 applies in relation to local government reorganisation.

10 Section 24A amended (Transitional modification or suspension of certain statutory requirements after issue of final proposal for reorganisation)

- (1) In the heading to section 24A, replace “**final proposal for reorganisation**” with “**reorganisation plan**”. 35
- (2) Replace section 24A(1) with:

- (1) The purpose of this section is to authorise the extension or postponement of certain statutory requirements after public notice of a reorganisation plan is given under **clause 13 of Schedule 3** if a poll of electors on that plan is to be held under clause 25 of that schedule.
- (3) Replace section 24A(2) with: 5
- (2) This section applies to a reorganisation plan only if the plan provides for any of the matters specified in **clause 23(1) of Schedule 3**.
- (4) In section 24A(6), replace the definition of **specified period** with: 10
- specified period** means the period—
- (a) beginning on the date on which public notice is given of the reorganisation plan under **clause 13 of Schedule 3**; and
- (b) ending on the close of the date that is 6 months after the date on which that public notice is given.
- 11 Section 25 replaced (Order in Council to give effect to final proposals and reorganisation schemes)** 15
- Replace section 25 with:
- 25 Order in Council to give effect to reorganisation plan**
- (1) A reorganisation plan to which **clause 22C(5)** or 33 of Schedule 3 applies— 20
- (a) is given effect to by Order in Council made on the recommendation of the Minister; and
- (b) has effect on and from the date specified for that purpose by Order in Council.
- (2) The Minister must recommend the making of an Order in Council under **subsection (1)** unless the Minister is satisfied, on reasonable grounds, that— 25
- (a) the process followed in developing the reorganisation plan was not in accordance with the requirements of this Act; or
- (b) the development of the reorganisation plan failed to give proper weight to the relevant principles, considerations, and criteria set out in this Act.
- (3) An Order in Council made under **subsection (1)**— 30
- (a) must establish and provide for 1 or more transition bodies in accordance with—
- (i) clauses 33 to 40 of Schedule 3; and
- (ii) the provisions in the reorganisation plan relating to transitional matters; and
- (b) may, with the agreement of the Commission, suspend any statutory requirement that an affected local authority would otherwise be subject to before a reorganisation plan comes into effect, but only if the coming in- 35

- to effect of the plan would make compliance with the statutory requirement unnecessary or inappropriate.
- (4) An Order in Council made under **subsection (1)** may, if appropriate, amend Part 1 or 2 of Schedule 2.
- (5) An Order in Council giving effect to a reorganisation plan is not invalid merely because it is inconsistent with the provisions of the reorganisation plan if the inconsistency relates to—
- (a) corrections of clerical, grammatical, or typographical errors; or
 - (b) matters of a format or referential nature that do not alter the substance or effect of the reorganisation plan.
- 25A Order in Council to give effect to reorganisation implementation scheme**
- (1) A reorganisation implementation scheme prepared and issued under clause 41(2) of Schedule 3—
- (a) is given effect to by Order in Council made on the recommendation of the Minister; and
 - (b) has effect on and from the date specified by Order in Council made under **section 25(1)(a)**.
- (2) An Order in Council giving effect to a reorganisation implementation scheme is not invalid merely because it is inconsistent with the provisions of the reorganisation plan or the reorganisation implementation scheme if the inconsistency relates to—
- (a) corrections of clerical, grammatical, or typographical errors; or
 - (b) matters of a format or referential nature that do not alter the substance or effect of the reorganisation implementation scheme.
- (3) If a reorganisation implementation scheme does not specifically provide for a matter that the Secretary considers to be necessary, desirable, or incidental as a consequence of the scheme,—
- (a) the Secretary must consult the Commission, and each affected local authority, about the inclusion of the matter in the Order in Council under **subsection (1)**; and
 - (b) the matter may be included in the Order in Council if the Minister considers the inclusion is appropriate.
- (4) Clauses 45 and 46 of Schedule 3 apply in respect of each reorganisation implementation scheme that is given effect to by Order in Council, except to the extent that the scheme provides that the clauses are—
- (a) amended in their application by the reorganisation implementation scheme; or
 - (b) declared not to apply.

- (5) Clauses 47 to **60** of Schedule 3 apply to each reorganisation implementation scheme that is given effect to by Order in Council.

12 Section 26 amended (Power to amend reorganisation schemes)

- (1) In the heading to section 26, replace “**reorganisation schemes**” with “**reorganisation plan and reorganisation implementation scheme**”. 5
- (2) In section 26(1), replace “reorganisation scheme” with “reorganisation plan or reorganisation implementation scheme”.
- (3) In section 26(1)(a) and (b), replace “scheme” with “plan or scheme” in each place.
- (4) Replace section 26(2) and (3) with: 10
- (2) A determination issued under subsection (1)—
- (a) is given effect to by Order in Council made on the recommendation of the Minister; and
- (b) has effect on and from the date specified in that Order in Council.
- (3) In this section, **reorganisation implementation scheme** means a reorganisation implementation scheme prepared under Schedule 3 and given effect to by Order in Council. 15

13 Section 26A amended (Duties of local authorities in relation to local government reorganisation)

- (1) In section 26A(1), after “local authority”, insert “and council-controlled organisation”. 20
- (2) In section 26A(2), after “local authority”, insert “or council-controlled organisation” in each place.
- (3) In section 26A(2), replace “proposed reorganisation or to the development of a reorganisation scheme” with “reorganisation investigation or to the development of a reorganisation implementation scheme”. 25
- (4) In section 26A(3), after “local authority”, insert “or council-controlled organisation”.
- (5) In section 26A(3), replace “final proposal” with “reorganisation plan”.
- (6) In section 26A(4), after “local authority”, insert “or council-controlled organisation”. 30
- (7) In section 26A(4)(a), replace “final proposal” with “reorganisation plan”.
- (8) Replace section 26A(4)(b) and (c) with:
- (b) significantly constrain the powers or capacity of any local authority, subsidiary of a local authority, or council-controlled organisation to be established, changed, or transferred under the reorganisation plan; or 35

- (c) have a significant negative impact on the assets or liabilities that may be transferred to any local authority or council-controlled organisation in the implementation of the reorganisation plan.
- (9) After section 26A(4), insert:
- (5) A local authority that receives a report or recommendation from the Commission under **clause 10 of Schedule 3** must— 5
- (a) make the report or recommendation publicly available; and
- (b) consider and respond to the Commission in relation to the report or recommendation; and
- (c) make the response publicly available. 10
- (6) A local authority must comply with **subsection (5)**—
- (a) by the date specified by the Commission in the report or recommendation; or
- (b) if the Commission does not specify a date, within 20 working days after receiving the report or recommendation. 15
- (7) Nothing in this section requires a local authority to make publicly accessible any information that may be properly withheld if a request for that information were made under the Local Government Official Information and Meetings Act 1987.
- 14 Section 27 amended (Application to be called city council or district council)** 20
- In section 27(1), replace “making a reorganisation application” with “submitting a reorganisation initiative”.
- 15 Section 31 amended (Report to Minister on matters relating to local government)** 25
- Repeal section 31(1A).
- 16 Section 31A replaced (Minister’s expectations of Commission in relation to local government reorganisation)**
- Replace section 31A with:
- 31A Minister’s expectations of Commission in relation to local government reorganisation** 30
- (1) The Minister may, by notice in writing to the Commission, specify expectations relating to the Commission’s performance of its functions and exercise of its powers under Schedule 3.
- (2) Without limiting **subsection (1)**, the Minister may specify— 35

- (a) any issues, problems, opportunities, or reorganisation objectives that must be regarded by the Commission as having a high priority for investigation:
- (b) any geographic area or areas that must be regarded by the Commission as having a high priority for investigation: 5
- (c) any matters or geographic areas that must not be the subject of an investigation by the Commission.
- (3) Before specifying expectations under this section, the Minister may consult any persons or organisations that the Minister considers it is appropriate to consult.
- (4) The Minister must give any notice under **subsection (1)** to the Commission not less than 3 months before the start of the first financial year to which the expectations in that notice relate. 10
- (5) If the Minister issues a notice under **subsection (1)** in respect of 1 or more financial years, the Commission must—
 - (a) take that notice into account in developing its statement of intent under **section 31B** and its annual work programme under **section 31C**; and 15
 - (b) in its annual report under **section 31F** for each year to which the notice relates, describe how and the extent to which it has met the expectations specified in the notice.

17 New sections 31B to 31H inserted 20
After section 31A, insert:

31B Statement of intent

- (1) The Commission must provide to the Minister a statement of intent that complies with this section.
- (2) The statement of intent must relate to the forthcoming financial year and at least the following 3 financial years. 25
- (3) The Commission must provide a statement of intent at least once in every 3-year period.
- (4) Sections 141 to 149A of the Crown Entities Act 2004 apply to a statement of intent under this section as if— 30
 - (a) every reference to a Crown entity were a reference to the Commission; and
 - (b) every reference to the responsible Minister were a reference to the Minister.

Compare: 2004 No 115 s 139 35

31C Annual work programme

- (1) The Commission must prepare and adopt a work programme that complies with this section for each financial year.

- (2) A work programme under **subsection (1)** must be adopted before the commencement of the year to which it relates.
- (3) The work programme must identify the intended activity of the Commission during the year including, without limitation,—
- (a) the anticipated commitments of the Commission under the Local Electoral Act 2001 and **section 31H**; and 5
 - (b) the anticipated commitments of the Commission under section 31; and
 - (c) the progression and completion of reorganisation investigations under Schedule 3 that are under way at the commencement of the year; and
 - (d) any reorganisation investigations under Schedule 3 that the Commission intends to undertake or commence during the year; and 10
 - (e) how the Commission intends to respond to investigation requests and reorganisation initiatives under Schedule 3 during the year, including any criteria to be used to prioritise responses to those requests and initiatives.
- (4) The work programme must contain forecast financial statements for the financial year, prepared in accordance with generally accepted accounting practice, that include— 15
- (a) a statement of all significant assumptions underlying the forecast financial statements; and
 - (b) any additional information and explanations needed to fairly reflect the forecast financial operations and financial position of the Commission. 20
- (5) The Commission must, in developing a work programme under this section, have regard to any notice received from the Minister under **section 31A** that relates to the financial year.
- (6) The Commission must, before adopting a work programme under this section, consult the Minister on the proposed content of the work programme described in **subsection (3)(b) to (e)**. 25
- (7) As soon as practicable after adopting a work programme under this section, the Commission must publish the work programme on an Internet site maintained by or on behalf of the Commission. 30
- (8) The adoption of a work programme under this section does not constitute a decision to act on any matter included within that work programme and does not prevent the Commission from acting in a manner that is inconsistent with the work programme.
- 31D Power to direct Commission to have regard to Government policy** 35
- (1) The Minister may, by notice in writing, direct the Commission to have regard to a Government policy that relates to the Commission’s responsibilities, duties, and powers under Schedule 3.

- (2) Section 115 of the Crown Entities Act 2004 applies to a direction under **subsection (1)** as if—
- (a) every reference to a Crown entity were a reference to the Commission; and
 - (b) every reference to the responsible Minister were a reference to the Minister. 5
- (3) This section does not authorise the Minister to direct the Commission by requiring the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular reorganisation or investigation. 10
- (4) The Commission must, in performing or exercising its responsibilities, duties, and powers under Schedule 3, have regard to any direction given to it under this section.
- Compare: 2004 No 115 ss 104, 113(1)(b)
- 31E Review of Commission’s operations and performance** 15
- (1) The Minister may review the operations and performance of the Commission at any time.
 - (2) This section does not limit powers to review in the State Sector Act 1988 or the Public Audit Act 2001 or under any other Act.
 - (3) Before the Minister undertakes a review under this section, he or she must— 20
 - (a) consult the Commission about the purpose and nature of the review; and
 - (b) consider any submissions made by the Commission on the proposed review.
 - (4) The Commission must take all reasonable steps to co-operate with the review. 25

Compare: 2004 No 115 s 132
- 31F Obligation to prepare, present, and publish annual report**
- (1) The Commission must,—
 - (a) as soon as practicable after the end of each financial year, prepare a report on its proceedings and operations during that financial year; and
 - (b) provide the report to the Minister no later than 15 working days after receiving the audit report required under **section 31G(1)(d)**. 30
 - (2) The Minister (or another Minister if **subsection (5)** applies) must present the annual report to the House of Representatives within 5 working days after the Minister receives the annual report or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament. 35
 - (3) The Commission must publish its annual report as soon as practicable after it has been presented to the House of Representatives, but in any case no later than 10 working days after the annual report is received by the Minister, on an Internet site maintained by or on behalf of the Commission.

- (4) The Commission's annual report may be presented to the House of Representatives in a document that includes any other report or information, whether or not that other report or information relates to the Commission, but only if each report or set of information is separately identifiable within that document.
- (5) A Minister other than the Minister of Local Government may present the Commission's annual report to the House of Representatives if— 5
- (a) the report is presented in a document that includes another report or other information; and
 - (b) that other Minister is responsible for presenting that other report or information. 10
- Compare: 2004 No 115 s 150
- 31G Form and content of annual report**
- (1) The annual report must contain the following information and reports in respect of the financial year to which it relates:
- (a) information on the operations of the Commission that complies with **subsection (2)**; and 15
 - (b) the annual financial statements for the Commission in accordance with section 154 of the Crown Entities Act 2004; and
 - (c) a statement of responsibility in accordance with section 155 of that Act; and 20
 - (d) the audit report in accordance with section 156 of that Act; and
 - (e) any new direction given to the Commission by the Minister under **section 31D** during that financial year, as well as other such directions that remain current; and
 - (f) information required by section 152 of the Crown Entities Act 2004 (which relates to payments in respect of members, committee members, and employees during the financial year); and 25
 - (g) any matters that relate to or affect the Commission's operations that the Commission is otherwise required, or has undertaken, or wishes to report on in its annual report. 30
- (2) The annual report must provide the information that is necessary to enable an informed assessment to be made of the Commission's operations and performance for that financial year, including an assessment of the Commission's progress in relation to—
- (a) each item or activity identified in its work programme for that year; and 35
 - (b) its strategic intentions as set out in the most recent statement of intent.
- (3) The annual report must be in writing, be dated, and be signed on behalf of the Commission by 2 members.

- (4) For the purposes of **subsection (1)(b), (c), (d), and (f)**, sections 152, 154, 155, and 156 of the Crown Entities Act 2004 apply as if—
- (a) every reference to a Crown entity were a reference to the Commission; and
 - (b) every reference to a member or board member were a reference to a member (including a temporary member) of the Commission; and
 - (c) every reference to the board of an entity were a reference to the members of the Commission collectively.
- Compare: 2004 No 115 s 151
- 31H Commission to resolve disputes**
- (1) This section applies if any enactment provides for a matter in dispute to be referred to the Commission for resolution.
 - (2) An application to the Commission must be in writing, and must state—
 - (a) the matter in dispute; and
 - (b) the parties to the dispute; and
 - (c) the provision authorising the referral of the matter to the Commission for resolution.
 - (3) An application must be accompanied by copies of all reports, correspondence, and other information that are relevant to the matter and held by the applicant or applicants.
 - (4) Promptly after receiving an application under **subsection (2)**, the Commission must give notice in writing to the mayor and the chief executive of each local authority that is a party to the dispute and request them to provide, by a reasonable deadline specified in the notice, copies of all information held by the local authority that is relevant to the matter, including all reports and correspondence.
 - (5) After receiving the information from each mayor and chief executive, the Commission must—
 - (a) consider the information it has received under **subsections (3) and (4)**; and
 - (b) determine the matter, having regard to—
 - (i) the requirements of all relevant enactments, including any statements of the purpose or objective of requirements or of matters to be taken into account; and
 - (ii) the substantial merits and justice of the case; and
 - (iii) any other matter the Commission considers on reasonable grounds to be relevant.
 - (6) For the purposes of making a determination, the Commission—

<ul style="list-style-type: none"> (a) must treat the matter as urgent; and (b) may make any inquiries that it considers appropriate; and (c) may (but is not obliged to) hold meetings with any party to the dispute, or with any other person. 	5
<p>(7) The Commission may apportion the actual and reasonable costs incurred by it in making a determination between the parties to the dispute as it thinks fit, having regard to the merits of the initial positions of those parties.</p>	5
<p>(8) The parties must, without unreasonable delay, give effect to a determination under this section.</p>	5
<p>18 Section 33 amended (Membership of Commission)</p> <p>In section 33(1), replace “3 members” with “a minimum of 3 members and a maximum of 5 members”.</p>	10
<p>19 New section 35A inserted (Application of Official Information Act 1982)</p> <p>After section 35, insert:</p>	10
<p>35A Application of Official Information Act 1982</p> <p>(1) This section applies to information created or received by the Commission in the course of—</p> <ul style="list-style-type: none"> (a) an investigation under section 31: (b) the resolution of a dispute under section 31H: (c) the determination of an appeal or objection under section 19R of the Local Electoral Act 2001. <p>(2) Information to which this section applies is not official information for the purposes of the Official Information Act 1982 until the investigation, resolution, or determination has been completed.</p>	15
<p>20 Section 48R amended (Disputes about allocation of decision-making responsibilities or proposed bylaws)</p> <p>Replace section 48R(3) and (4) with:</p>	25
<p>(3) If, after acting under subsection (2), the dispute is still unresolved, 1 or more local boards may refer the matter to the Commission for resolution in accordance with section 31H.</p>	30
<p>(4) For the purposes of section 31H(5)(b)(i), matters that the Commission must have regard to are—</p> <ul style="list-style-type: none"> (a) the requirements of this Act; and (b) the current and future well-being of the communities of the district, and the interests and preferences of the communities within each affected local board area. 	35

21	Section 48S amended (Local Government Commission to determine disputes)	
(1)	Replace the heading to section 48S with “ Effect of determination by Commission of dispute as to content of long-term plan ”.	
(2)	Repeal section 48S(1) to (5).	5
22	New sections 56A to 56W and cross-headings inserted	
	After section 56, insert:	
56A	Establishment of water services council-controlled organisation or transport services council-controlled organisation	
(1)	If a local authority is proposing to become a shareholder in a multiply owned council-controlled organisation for the purposes of delivering water, wastewater, stormwater, or transport services, or any combination of those, the local authority must obtain the written agreement of the Commission before commencing the consultation required in section 56(1).	10
(2)	Subsection (1) does not prevent a local authority from holding initial discussions with other local authorities or any other party in the context of deciding whether to support a proposal to which that subsection would apply.	15
56B	Establishment of multiply owned council-controlled organisation	
(1)	This section applies if 2 or more local authorities have resolved to establish a multiply owned council-controlled organisation or 1 or more local authorities have resolved to become shareholders in a multiply owned council-controlled organisation.	20
(2)	Each of the local authorities, and any local authority that is already a shareholder in the council-controlled organisation, is responsible for ensuring compliance with the provisions of this Act in respect of the establishment of the council-controlled organisation.	25
(3)	In the event of any dispute between the local authorities about how to comply with subsection (2) , the local authorities must make reasonable efforts to reach a mutually acceptable and timely resolution of the dispute, having regard to—	30
	(a) the requirements of this Act; and	
	(b) the current and future well-being of the communities of their districts, and the interests and preferences of the communities within the districts.	
(4)	If the dispute is still unresolved after acting under subsection (3) , 1 or more local authorities may refer the matter to the Commission for resolution in accordance with section 31H .	35

Service delivery plan and infrastructure strategy of council-controlled organisation

56C Content of service delivery plan

- (1) If a council-controlled organisation is required to have a current service delivery plan, that plan must cover a period of at least 10 consecutive financial years. 5
- (2) The service delivery plan must—
- (a) describe how the organisation intends to—
 - (i) manage, maintain, and invest in its assets; and
 - (ii) achieve the intended service levels; and 10
 - (iii) respond to demographic change and other changing environmental factors; and
 - (iv) give effect to the shareholders' strategy, plans, and priorities; and
 - (b) include, for each of the financial years covered by the plan, forecast financial statements for the organisation; and 15
 - (c) include the following statements, at the level of detail specified in **subsection (3)**, in relation to each group of activities of the organisation:
 - (i) a statement of the intended levels of service provision, including identification of any intended changes to the level of service that was provided in the year before the first year covered by the plan and the reasons for those changes; and 20
 - (ii) a funding impact statement in the prescribed form that identifies—
 - (A) the sources of funding to be used by the organisation; and
 - (B) the amount of funds expected to be produced from each source; and 25
 - (C) how the funds are to be applied.
- (3) The statements required under **subsection (2)(c)** must be provided—
- (a) in detail, in relation to each of the first 3 financial years covered by the plan; and 30
 - (b) in outline, in relation to each of the subsequent financial years covered by the plan.
- (4) In the case of a multiply owned council-controlled organisation, the service delivery plan must also identify—
- (a) the amount of any operating revenue to be contributed by the shareholding local authorities in any year, in accordance with **section 61C(2)**; and 35

- (b) any amount to be borrowed from shareholding local authorities in any year, in accordance with **section 61B(2)**.

56D Content of infrastructure strategy

- (1) If a council-controlled organisation is required to have a current infrastructure strategy, that strategy must cover a period of at least 30 consecutive financial years. 5
- (2) The infrastructure strategy must—
- (a) identify significant infrastructure issues for the council-controlled organisation during the period covered by the strategy; and
- (b) identify the principal options for managing those issues and the implications of those options; and 10
- (c) describe how the organisation intends to reliably deliver the services that it provides in a financially sustainable manner.
- (3) Subsections (3) and (4) of section 101B (which relate to the content of a local authority's infrastructure strategy) apply to a council-controlled organisation's infrastructure strategy as if every reference in those subsections to a local authority were a reference to the council-controlled organisation. 15

56E Adoption of service delivery plan and infrastructure strategy

- (1) A council-controlled organisation may not adopt a service delivery plan or an infrastructure strategy unless the plan or strategy has been approved by the shareholders. 20
- (2) A service delivery plan must be adopted before the commencement of the first year to which it relates and continues in force until the close of the third consecutive year to which it relates.
- (3) An infrastructure strategy must be adopted before the first year of the period to which it relates and continues in force until the close of the third consecutive year of that period. 25

Water services council-controlled organisation

56F Shareholding in water services council-controlled organisation

Local authorities must hold and exercise their ownership interest in a water services council-controlled organisation directly, and not through a holding company or other subsidiary of the local authority. 30

56G Water services council-controlled organisation must have service delivery plan and infrastructure strategy

- (1) A water services council-controlled organisation must, at all times, have a current service delivery plan and infrastructure strategy in accordance with **sections 56C to 56E**. 35

- (2) The first service delivery plan under this section must relate to the period commencing with the first full financial year after the establishment of the water services council-controlled organisation.
- (3) The first infrastructure strategy under this section must relate to the period commencing with the second full financial year after the establishment of the water services council-controlled organisation. 5
- (4) The second service delivery plan and infrastructure strategy under this section must relate to the period commencing with the second financial year to which the next long-term plans of the shareholding local authorities relate.
- (5) **Subsection (1)** is subject to **subsections (2) and (3)**. 10
- 56H Prohibition on water services council-controlled organisation distributing surplus**
- A water services council-controlled organisation—
- (a) must not pay any dividend or distribute any surplus in any way, directly or indirectly, to any owner or shareholder; and 15
- (b) is not required to comply with section 68(b).
- 56I Statutory powers of water services council-controlled organisation**
- (1) A water services council-controlled organisation may perform or exercise any of the responsibilities, duties, and powers listed in **Schedule 8A** that are conferred on that council-controlled organisation by an Order in Council under **section 25**. 20
- (2) A shareholding local authority must not perform or exercise any responsibility, duty, or power that is conferred on a water services council-controlled organisation by an Order in Council under **section 25**.
- (3) This section does not prevent a water services council-controlled organisation from delegating to a shareholding local authority any responsibility, duty, or power conferred on the council-controlled organisation by an Order in Council under **section 25**. 25
- 56J Bylaws and enforcement for multiply owned water services council-controlled organisation** 30
- (1) The shareholding local authorities of a multiply owned water services council-controlled organisation must establish a joint committee for the purposes of this section.
- (2) A joint committee under this section must perform or exercise the responsibilities and powers of a local authority under **sections 56K and 56L** in respect of proposed bylaws that affect more than 1 district. 35
- (3) A joint committee to which **subsection (2)** applies must consult each affected local authority for the purposes of making a decision under **section 56K(2)**.

- (4) The shareholding local authorities must delegate to a joint committee responsibility for—
- (a) the appointment of enforcement officers with jurisdiction over the districts of all the shareholding local authorities; and
 - (b) the approval of enforcement actions; and
 - (c) the delegation of enforcement powers to appointed officers.
- 56K Water services council-controlled organisation may propose bylaw**
- (1) A water services council-controlled organisation may propose to a shareholding local authority, in writing, that a bylaw relating to the management or supply of water supply, wastewater, or stormwater services be made by the local authority under a specified enactment.
- (2) As soon as practicable after receiving a proposal under **subsection (1)**, the local authority must decide whether the proposed bylaw meets the following requirements:
- (a) the proposed bylaw is a bylaw relating to the management or supply of water supply, wastewater, or stormwater services; and
 - (b) the specified enactment under which the bylaw is proposed to be made authorises the making of the bylaw; and
 - (c) the proposed bylaw complies with the applicable statutory requirements of that enactment and any other relevant enactment; and
 - (d) the proposed bylaw is not inconsistent with any strategy, policy, plan, or bylaw of the local authority; and
 - (e) the proposed bylaw can be implemented and enforced in a cost-effective manner.
- (3) If the local authority decides that a proposed bylaw—
- (a) meets the requirements of **subsection (2)**, it must give written notice of its decision to the organisation:
 - (b) does not meet the requirements of **subsection (2)**, it must give written notice of its decision (with reasons) to the organisation.
- 56L Water services council-controlled organisation must consult on proposed bylaw**
- (1) This section applies if a water services council-controlled organisation has received notice under **section 56K(3)(a)** from a shareholding local authority in respect of a bylaw that the organisation has proposed.
- (2) The organisation must confirm the proposed bylaw and, for that purpose, section 156(1) applies, with any necessary modifications, as if the organisation were a local authority and the bylaw were a bylaw being made under this Act.

- (3) If, after acting under **subsection (2)**, the organisation confirms the proposed bylaw, it must give written notice of its decision to the local authority and the local authority must adopt the bylaw by resolution.
- (4) If, after acting under **subsection (2)**, the organisation modifies the proposed bylaw, it must give written notice of its decision to the local authority and the local authority must,— 5
- (a) if satisfied that the proposed bylaw meets the requirements of **section 56K(2)**, adopt the bylaw by resolution; or
- (b) if not satisfied that the proposed bylaw meets the requirements of **section 56K(2)**, give notice to the organisation under **section 56K(3)(b)**. 10
- (5) Where the local authority adopts a bylaw under **subsection (3) or (4)(a)**, the requirements of sections 86, 155, and 156 are deemed to be satisfied in respect of that bylaw.
- Transport services council-controlled organisation*
- 56M Shareholding in transport services council-controlled organisation** 15
- Local authorities must hold and exercise their ownership interest in a transport services council-controlled organisation directly and not through a holding company or other subsidiary of the local authority.
- 56N Transport services council-controlled organisation must have service delivery plan and infrastructure strategy** 20
- (1) A transport services council-controlled organisation must, at all times, have a current service delivery plan and infrastructure strategy in accordance with **sections 56C to 56E**.
- (2) The first service delivery plan under this section must relate to the period commencing with the first full financial year after the establishment of the transport services council-controlled organisation. 25
- (3) The first infrastructure strategy under this section must relate to the period commencing with the second full financial year after the establishment of the transport services council-controlled organisation.
- (4) The second service delivery plan and infrastructure strategy under this section must relate to the period commencing with the second financial year to which the next long-term plans of the shareholding local authorities relate. 30
- (5) **Subsection (1)** is subject to **subsections (2) and (3)**.
- 56O Statutory powers of transport services council-controlled organisation**
- (1) A transport services council-controlled organisation may perform or exercise any of the responsibilities, duties, and powers listed in **Schedule 8B** that are conferred on it by an Order in Council under **section 25**. 35

- (2) Nothing in this section authorises the transfer of ownership of any road, land, or other property to a council-controlled organisation or affects the operation of section 316(1) of the Local Government Act 1974.
- (3) A shareholding local authority must not perform or exercise any responsibility, duty, or power that is conferred on a transport services council-controlled organisation by an Order in Council under **section 25**. 5
- (4) This section does not prevent a transport services council-controlled organisation from delegating to a shareholding local authority any responsibility, duty, or power conferred on the council-controlled organisation by an Order in Council under **section 25**. 10
- (5) Nothing in this section prevents a shareholding local authority from performing or exercising, for a purpose that is not transport-related, any responsibility, duty, or power that is conferred on a transport services council-controlled organisation (for example, to regulate the use of a footpath, public space, or road reserve for liquor control purposes, or to designate a corridor that passes through a road). 15
- (6) **Subsection (5)** applies whether the local authority is performing or exercising the responsibility, duty, or power as the owner of a road or other land, or otherwise.
- 56P Designations relating to acquisition and disposal of land** 20
- (1) A transport services council-controlled organisation performing or exercising all of the responsibilities, duties, and powers set out in **Schedule 8B** in respect of 1 or more whole regions is deemed to be approved as a requiring authority, as a network utility operator, under section 167 of the Resource Management Act 1991, for the following purposes: 25
- (a) constructing or operating, or proposing to construct or operate, roads in the region or regions; and
- (b) the carrying out of an activity or a proposed activity (other than an activity described in **paragraph (a)**) in relation to a transport-related project or work for which the council-controlled organisation has responsibility under an Order in Council under **section 25**. 30
- (2) A transport services council-controlled organisation performing or exercising all of the responsibilities, duties, and powers set out in **Part 1 of Schedule 8B** and no other statutory responsibilities, duties, or powers, in respect of 1 or more whole regions, is deemed to be approved as a requiring authority, as a network utility operator, under section 167 of the Resource Management Act 1991, for the purposes of constructing or operating, or proposing to construct or operate, roads in the region or regions. 35
- (3) For the purposes of **subsections (1) and (2)**, Part 8 of the Resource Management Act 1991 applies— 40

- (a) with any necessary modifications (and despite the fact that an activity described in **subsection (1)(b)** is not a network utility operation within the meaning of section 166 of that Act); but
- (b) subject to **subsection (6)** and **section 56Q**.
- (4) A shareholding local authority must not act as a requiring authority in relation to any matter for which a transport services council-controlled organisation has requiring authority status conferred on it in accordance with this section. 5
- (5) **Subsection (4)** applies unless the council-controlled organisation transfers the designation concerned to the local authority under **subsection (6)**.
- (6) If section 180(1) of the Resource Management Act 1991 applies to a project or work that is described in **subsection (1)(b)**, the organisation may exercise the power under that section only by transferring the relevant designation to— 10
- (a) a Minister of the Crown; or
- (b) the New Zealand Transport Agency; or
- (c) Kiwirail Holdings Limited; or 15
- (d) the relevant shareholding local authority.
- (7) The New Zealand Transport Agency and Kiwirail Holdings Limited may not transfer any designation that they receive under **subsection (6)**.
- Compare: 2009 No 32 s 47
- 56Q Acquisition and disposal of land by council-controlled organisation or shareholding local authority** 20
- Acquisition of land by transport services council-controlled organisation*
- (1) **Subsection (2)** applies if—
- (a) a transport services council-controlled organisation, exercising requiring authority status conferred on it by **section 56P**, decides to acquire or take land that is required for a project or work in accordance with section 186 of the Resource Management Act 1991; or 25
- (b) by operation of sections 185(5) and (6) and 186 of the Resource Management Act 1991, the Minister of Lands is deemed to have entered into an agreement on behalf of a council-controlled organisation to acquire or lease land subject to a designation or requirement. 30
- (2) The council-controlled organisation must notify the territorial authority or territorial authorities in whose district the land is situated, in writing, of its decision to apply for the compulsory acquisition of the land, or the deemed agreement, as the case may be. 35
- (3) **Subsection (2)** prevails over sections 185 and 186(2) and (4) of the Resource Management Act 1991.

Disposal of land by transport services council-controlled organisation

- (4) If a transport services council-controlled organisation, exercising powers under Part 21 of the Local Government Act 1974 that are referred to in **section 56O(1)**, decides to dispose of land not required for a road under section 345 of that Act, the organisation must, in writing, notify the local authority in which the land is vested of its decision, and the local authority must dispose of the land in accordance with the requirements of that Act. 5

Acquisition or disposal of land by shareholding local authority

- (5) A shareholding local authority must exercise its powers as a local authority under the Public Works Act 1981 to acquire or dispose of land, as the case may be, if the local authority receives notice from a transport services council-controlled organisation under **subsection (2) or (4)** in relation to that land. 10
- (6) Any land acquired or taken as a result of a council-controlled organisation giving notice under **subsection (2)** vests in the territorial authority or territorial authorities, as the case may be. 15
- (7) A shareholding local authority may exercise its powers as a local authority under the Public Works Act 1981 to acquire, take, or dispose of land, in relation to any component of the transport system or for any transport-related purpose for which a council-controlled organisation has responsibility under an Order in Council under **section 25**, only if the council-controlled organisation has agreed to the acquisition, taking, or disposal of that land. 20

*Substantive council-controlled organisation***56R Constitution of substantive council-controlled organisation**

The constitution of a substantive council-controlled organisation must not preclude the council-controlled organisation from using any particular form of charging or source of revenue that would otherwise be available to the council-controlled organisation. 25

56S Accountability policy for substantive council-controlled organisation

- (1) This section applies to a local authority that, at the commencement of any financial year, is the sole shareholder in 1 or more substantive council-controlled organisations. 30
- (2) The local authority must, before the commencement of that financial year and after consulting on the proposed policy in a manner that gives effect to the requirements of section 82, adopt a policy on the accountability of each substantive council-controlled organisation. 35
- (3) The policy must—
- (a) include a statement of the local authority's expectations in respect of each substantive council-controlled organisation's contributions to, and alignment with, the local authority's objectives and priorities:

- (b) include a statement of the local authority's expectations in respect of each substantive council-controlled organisation's contributions to, and alignment with, any relevant objectives and priorities of central government:
- (c) specify any reporting requirements that each substantive council-controlled organisation must comply with in addition to those required under Part 5: 5
- (d) specify any planning requirements that each substantive council-controlled organisation must comply with in addition to those required under Part 5: 10
- (e) identify or define any strategic assets in relation to each substantive council-controlled organisation and set out any requirements in relation to the organisation's management of those assets, including the process by which the organisation may approve major transactions in relation to them. 15
- (4) A policy under this section—
- (a) must be published on an Internet site maintained by or on behalf of the local authority:
- (b) may be amended only after consulting on the proposed amendments in a manner that gives effect to the requirements of section 82. 20
- 56T Accountability policy for multiply owned substantive council-controlled organisation**
- (1) This section applies to local authorities that, at the commencement of any financial year, are shareholders in a multiply owned substantive council-controlled organisation. 25
- (2) The shareholders must, before the commencement of that financial year and after consulting on the proposed policy in a manner that gives effect to the requirements of section 82, adopt a policy on the accountability of the council-controlled organisation.
- (3) The policy must— 30
- (a) include a statement of the shareholders' expectations in respect of the substantive council-controlled organisation's contributions to, and alignment with, the objectives and priorities of each shareholder:
- (b) include a statement of the shareholders' expectations in respect of the substantive council-controlled organisation's contributions to, and alignment with, any relevant objectives and priorities of central government: 35
- (c) specify any reporting requirements that the substantive council-controlled organisation must comply with in addition to those required under this Act:

- (d) specify any planning requirements that the substantive council-controlled organisation must comply with in addition to those required under this Act:
- (e) identify or define any strategic assets relevant to the substantive council-controlled organisation and set out any requirements in relation to the organisation's management of those assets, including the process by which the organisation may approve major transactions in relation to them. 5
- (4) A policy under this section—
- (a) must be published on an Internet site maintained by or on behalf of each local authority that is a shareholder in the multiply owned substantive council-controlled organisation: 10
- (b) may be amended only after consulting on the proposed amendments in a manner that gives effect to the requirements of section 82.
- 56U Shareholders may impose additional accountability requirements on substantive council-controlled organisation** 15
- (1) The shareholders of a substantive council-controlled organisation may require the council-controlled organisation to—
- (a) describe in its statement of intent how the organisation will contribute to the shareholders' and, where appropriate, the Government's objectives and priorities: 20
- (b) deliver to each shareholder, no later than 1 month after the end of the first and third quarter of each financial year, a report on the organisation's operations during each quarter that includes the information that is required to be included by its statement of intent:
- (c) prepare and adopt a service delivery plan in accordance with **sections 56C and 56E**: 25
- (d) prepare and adopt an infrastructure strategy in accordance with **sections 56D and 56E**.
- (2) If the shareholders require a service delivery plan that is required under **subsection (1)(c)** or an infrastructure strategy that is required under **subsection (1)(d)** to be reviewed and replaced at times or intervals other than those specified in **section 56E(2) and (3)**, those different times and intervals apply. 30
- (3) Each shareholding local authority of a substantive council-controlled organisation that has a service delivery plan or an infrastructure strategy must publish those documents, and maintain them for a period of no less than 7 years, on an Internet site maintained by or on behalf of the local authority. 35
- (4) This section does not limit or affect the application of any other section in this Part to a substantive council-controlled organisation.

56V Substantive council-controlled organisations must give effect to long-term plans and act consistently with other specified plans and strategies of shareholding local authorities

- (1) Each substantive council-controlled organisation must give effect to the relevant aspects of the long-term plan of each shareholding local authority. 5
- (2) In the case of a multiply owned substantive council-controlled organisation, any inconsistency between the requirements of **subsection (1)** in respect of the long-term plans of different shareholders must be resolved—
- (a) by the joint committee established under **section 56W**, if such a committee exists; or 10
- (b) by unanimous agreement between the shareholders, in any other case.
- (3) Each substantive council-controlled organisation must act consistently with the relevant aspects of any other plan (including a local board plan) or strategy of a shareholding local authority to the extent specified in writing by the shareholders. 15

Governance of multiply owned substantive council-controlled organisation

56W Governance of multiply owned substantive council-controlled organisation

- (1) Except as provided in **subsection (2)**, the shareholders of a multiply owned substantive council-controlled organisation must establish and maintain a joint committee for the purpose of collectively managing their interests in performing or exercising their responsibilities, duties, and powers as shareholders of the council-controlled organisation. 20
- (2) **Subsection (1)** does not apply in respect of a financial year if, before 1 March immediately preceding that financial year, each of the shareholding local authorities resolves to separately perform or exercise its responsibilities, duties, and powers as a shareholder of the council-controlled organisation in respect of that financial year. 25
- (3) The shareholders of a multiply owned substantive council-controlled organisation that establishes a joint committee under **subsection (1)** must delegate to that joint committee the following responsibilities, duties, and powers: 30
- (a) the adoption of a policy on the appointment of directors under section 57(1); and
- (b) the approval of the service delivery plan or infrastructure strategy for the purposes of **section 56E(1)**; and
- (c) the adoption of an accountability policy under **section 56T**; and 35
- (d) the specification of shareholder requirements and expectations under **sections 56T and 56U**.
- (4) In respect of any year to which **subsection (2)** applies, the responsibilities, duties, and powers listed in **subsection (3)** must be performed and exercised

	by unanimous agreement of the shareholders of the council-controlled organisation.	
(5)	A joint committee established under subsection (1) is responsible for making recommendations to shareholding local authorities of persons to be appointed as directors of the council-controlled organisation in accordance with section 57(2) and the policy adopted under subsection (3)(a) .	5
23	Section 57 amended (Appointment of directors)	
	After section 57(2), insert:	
(3)	A local authority must not appoint a person to be a director of a multiply owned substantive council-controlled organisation if the person is, at the time of the appointment,—	10
	(a) a member of the governing body of a shareholding local authority; or	
	(b) a member of a local board or community board of a shareholding local authority.	
(4)	A director of a multiply owned substantive council-controlled organisation who is elected to be a member of the governing body, a local board, or a community board, of a shareholding local authority must resign from his or her position as a director of the council-controlled organisation before taking up his or her position as an elected member.	15
24	New sections 61A to 61E and cross-heading inserted	20
	After section 61, insert:	
	<i>Financial arrangements and funding</i>	
61A	Funding of multiply owned council-controlled organisation	
(1)	The shareholders of a multiply owned council-controlled organisation must agree and adopt a funding allocation formula.	25
(2)	A formula adopted under subsection (1) must specify how each shareholder's contribution to any operating revenue that is required to be paid by shareholders to the council-controlled organisation in any year is to be determined.	
(3)	The formula under subsection (1) must be adopted, and may be amended, by unanimous agreement of all shareholders.	30
(4)	If the shareholders are unable to reach unanimous agreement, 1 or more of the shareholding local authorities may refer the matter to the Commission for resolution in accordance with section 31H .	
61B	Borrowing by multiply owned council-controlled organisation	
(1)	A multiply owned council-controlled organisation must not incur debt except as provided in its service delivery plan or, if there is no service delivery plan, as unanimously agreed by its shareholders.	35

- (2) If a multiply owned council-controlled organisation has a service delivery plan that provides for the organisation to borrow from 1 or more of its shareholding local authorities, those local authorities must lend money to the organisation in accordance with that service delivery plan.
- (3) **Subsection (2)** does not prevent— 5
- (a) a shareholding local authority lending a lesser amount than that specified in the service delivery plan, with the agreement of the board of the multiply owned council-controlled organisation; or
- (b) 1 or more shareholding local authorities lending a greater amount than that specified in the service delivery plan, with the unanimous agreement of all shareholders. 10
- 61C Financial management of substantive council-controlled organisation**
- (1) A substantive council-controlled organisation must manage its finances in a manner that will enable long-term continuity of service delivery at the levels of service— 15
- (a) set out in its planning document; and
- (b) required by or under any enactment.
- (2) If a substantive council-controlled organisation’s planning document provides for the shareholding local authority or authorities of the organisation to contribute to the organisation’s operating revenue, that local authority or those local authorities must contribute funding to the organisation in accordance with— 20
- (a) that planning document; and
- (b) any funding allocation formula adopted under **section 61A**.
- (3) **Subsection (2)** does not prevent—
- (a) the shareholding local authority or authorities from contributing a lesser amount than that specified in the planning document, with the agreement of the board of the council-controlled organisation; or 25
- (b) the shareholding local authority or authorities from contributing a greater amount than that specified in the planning document, with the unanimous agreement of all shareholders; or 30
- (c) a shareholding local authority from contracting to purchase additional services from the council-controlled organisation.
- (4) In this section, **planning document** means the substantive council-controlled organisation’s current service delivery plan or, if the organisation does not have a current service delivery plan, its current statement of intent. 35
- 61D Limitation on capital charges**
- (1) A substantive council-controlled organisation must not impose a capital charge for connection to infrastructure or services provided by that organisation, or for authority to use that infrastructure or those services, other than a development

contribution authorised in a development contributions policy adopted by its shareholding territorial authority under section 102, in accordance with **sections 63A to 63C**.

- (2) In this section, **capital charge**—
- (a) means a charge that is wholly or principally to meet the costs of capital expenditure to provide new or additional assets, or to increase the capacity of existing assets, in order to accommodate growth in demand; but
- (b) does not include a toll set or levied under Part 2 of the Land Transport Management Act 2003.
- (3) This section does not prevent a substantive council-controlled organisation from requiring payment of a fee to meet the reasonable costs of establishing a physical connection between a property and any infrastructure, and any associated administrative costs.

61E Prohibition on council-controlled organisations borrowing in foreign currency 15

- (1) No council-controlled organisation may borrow or enter into incidental arrangements, within or outside New Zealand, in currency other than New Zealand currency.
- (2) **Subsection (1)** does not apply to an incidental arrangement in relation to an investment in currency other than New Zealand currency. 20
- (3) In this section, **borrow** and **incidental arrangement** have the meanings given in section 112.

25 New sections 63A to 63E and cross-headings inserted

After section 63, insert:

Development contributions to fund capital expenditure by council-controlled organisations 25

63A Substantive council-controlled organisation may require amendment to shareholding territorial authority's development contributions policy

- (1) A substantive council-controlled organisation may require a shareholding territorial authority to include, in its development contributions policy adopted under section 102(2)(d), a requirement for development contributions to fund capital expenditure by the council-controlled organisation. 30
- (2) **Subsection (1)** applies only if the capital expenditure is capital expenditure that could be funded by development contributions if it were incurred by the territorial authority. 35
- (3) The council-controlled organisation must—

- (a) develop a draft amendment to the development contributions policy that contains the information required by sections 106, 201, 201A, and 202 in respect of the proposed development contributions; and
- (b) consult in accordance with section 102(4) on that draft amendment; and
- (c) after complying with **paragraph (b)**, submit the draft amendment to the territorial authority, together with a summary description of—
- (i) the consultation undertaken; and
 - (ii) the feedback received and outcomes of that consultation.
- (4) A multiply owned substantive council-controlled organisation must—
- (a) prepare a single draft amendment under **subsection (3)** that relates to the districts of all shareholding territorial authorities; and
 - (b) submit that draft amendment to each shareholding territorial authority.
- 63B Process where draft amendment to development contributions policy proposed**
- (1) As soon as practicable after receiving a draft amendment to a development contributions policy under **section 63A(3)(c)**, the territorial authority must decide whether that draft amendment and the process by which it was developed meet the requirements of **section 63A(2) to (4)**.
- (2) If the territorial authority decides that the draft amendment meets the requirements of **section 63A(2) to (4)**, it must—
- (a) give written notice of that decision to the council-controlled organisation; and
 - (b) as soon as practicable, amend its development contributions policy under section 106 to incorporate and give effect to the draft amendment; and
 - (c) pay the amount of all development contributions received in respect of the capital expenditure by the council-controlled organisation that are to be funded by the amendments to the policy, less the reasonable costs of administering those aspects of the policy, to the council-controlled organisation.
- (3) For the purposes of **subsection (2)(b)**, the territorial authority may amend its development contributions policy under the authority of this subsection without further consultation or formality, and without a review of any other content of the development contributions policy.
- (4) If the territorial authority decides, under **subsection (2)**, that a proposed amendment to its development contributions policy does not meet the requirements of **section 63A(2) to (4)**, it must give written notice of its decision (with reasons) to the council-controlled organisation.

63C	Effect of amendment to development contributions policy	
(1)	A substantive council-controlled organisation that requires a shareholding territorial authority to amend its development contributions policy to include development contributions to fund capital expenditure by that council-controlled organisation is responsible for complying with section 106(6) in respect of so much of that policy as relates to that capital expenditure.	5
(2)	Subpart 5 of Part 8 applies, with any necessary modifications, to amendments to a development contributions policy authorised under section 63B(3) .	
63D	Substantive council-controlled organisation may enter development agreement	10
(1)	If a substantive council-controlled organisation is involved in the provision of network infrastructure, a development agreement may be entered into between—	
	(a) a developer and the council-controlled organisation; or	
	(b) a developer, a territorial authority, and the council-controlled organisation.	15
(2)	Sections 207A to 207F apply, with all necessary modifications, to a development agreement entered into under subsection (1) .	
	<i>Engagement on long-term plans</i>	
63E	Shareholding local authority must discuss proposed long-term plan	20
	Before commencing consultation on the proposed content of its long-term plan under section 93(2), a local authority that is a shareholder in a council-controlled organisation must allow the board of that council-controlled organisation a reasonable opportunity to comment on the proposed content of the long-term plan, including, without limitation, any aspects of the proposed content that are likely to affect or be of interest to the council-controlled organisation.	25
26	Section 64 replaced (Statements of intent for council-controlled organisations)	
	Replace section 64 with:	
64	Statements of intent for council-controlled organisations	30
(1)	Every council-controlled organisation must prepare and adopt a statement of intent in accordance with Part 1 of Schedule 8 .	
(2)	The purpose of a statement of intent is to—	
	(a) state publicly the activities and intentions of the council-controlled organisation for the year and the objectives to which those activities will contribute; and	35

- (b) provide an opportunity for shareholders to influence the direction of the organisation; and
- (c) provide a basis for the accountability of the directors to their shareholders for the performance of the organisation.
- (3) The statement of intent— 5
- (a) must not be inconsistent with the constitution of the council-controlled organisation; and
- (b) may include and apply to 2 or more related council-controlled organisations.
- (4) Every statement of intent of a council-controlled organisation must comply with **Part 2 of Schedule 8**. 10
- (5) Every statement of intent of a council-controlled trading organisation must comply with **Part 3 of Schedule 8**.
- (6) Every statement of intent of a council-controlled organisation that is not a council-controlled trading organisation must comply with **Part 4 of Schedule 8**. 15
- (7) All information that is included in a statement of intent under this section must be prepared in accordance with generally accepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards. 20
- (8) Despite this section, an organisation that becomes a council-controlled organisation not more than 6 months before the end of a financial year is not required to prepare a statement of intent for that financial year.
- (9) Each shareholding local authority must publish the adopted statement of intent on an Internet site maintained by or on behalf of the local authority and must maintain the statement on that site for a period of no less than 7 years. 25
- (10) A failure by a council-controlled organisation to comply with any requirement of this section, or with any statement in the organisation’s statement of intent, does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by that organisation. 30

27 Section 65 amended (Performance monitoring)

- (1) In section 65(1)(b), after “intent”, insert “, service delivery plan, and infrastructure strategy”.
- (2) Repeal section 65(2).

28 Section 67 amended (Annual report) 35

After section 67(2), insert:

- (3) If a council-controlled organisation has undertaken to obtain or has obtained compensation from its shareholders in respect of any activity, the undertaking

- or the amount of compensation obtained must be recorded in the annual report of the council-controlled organisation.
- (4) Each shareholding local authority must publish the annual report on an Internet site maintained by or on behalf of the local authority and must maintain the statement on that site for a period of no less than 7 years. 5
- 29 Section 68 amended (Content of reports on operations of council-controlled organisations)**
- After section 68(a)(ii), insert:
- (iii) if the organisation has a service delivery plan, a report on the achievement of the objectives in that plan; and 10
- (iv) if the organisation has an infrastructure strategy, a report on progress towards implementing that strategy.
- 30 Section 137 amended (Joint local government arrangements and joint arrangements with other entities)**
- In section 137(1), definition of **joint local government arrangement**, after “water service”, insert “, but does not include a multiply owned water services council-controlled organisation”. 15
- 31 Section 259 amended (Regulations)**
- (1) In section 259(1)(d), replace “petitions and polls in relation to final proposals for local government reorganisation” with “polls in relation to reorganisation plans”. 20
- (2) In section 259(1)(da), after “a financial statement”, insert “of a local authority or substantive council-controlled organisation”.
- (3) In section 259(1)(db), after “and annual report”, insert “of a local authority and the service delivery plan and annual report of a substantive council-controlled organisation”. 25
- (4) After section 259(1)(dc), insert:
- (dca) prescribing parameters or benchmarks for assessing whether a substantive council-controlled organisation is managing its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that will facilitate continuity of service: 30
- (5) After section 259(1)(dd), insert:
- (de) prescribing the manner in which a substantive council-controlled organisation must state, in 1 or more of its service delivery plan, statement of intent, and annual report,— 35
- (i) the planned performance of the organisation against parameters and benchmarks prescribed in regulations made under **paragraph (dca)**:

- (ii) the actual performance of the organisation against parameters and benchmarks prescribed in regulations made under **paragraph (dca)**:
- (df) prescribing the corporate accountability information that a local authority must disclose in 1 or more of its long-term plan, annual plan, and annual report: 5
- (6) In section 259(3), replace “subsection (1)(dc)” with “subsection (1)(dc) or **(dca)**”.
- (7) In section 259(3)(b), after “local authority”, insert “or substantive council-controlled organisation”. 10
- (8) Replace section 259(3)(c) with:
- (c) prescribe parameters or benchmarks in a way that includes or excludes subsidiaries (including council-controlled organisations, council-controlled trading organisations, and council organisations) of a local authority or of a substantive council-controlled organisation. 15
- 32 Section 261A amended (Purpose of rules specifying performance measures)**
- (1) In section 261A, after “applicable to local authorities”, insert “and substantive council-controlled organisations”.
- (2) In section 261A, after “different local authorities”, insert “and substantive council-controlled organisations”. 20
- 33 Section 261B amended (Secretary must make rules specifying performance measures)**
- After section 261B(2), insert:
- (2A) The Minister may, by notice in the *Gazette*, direct the Secretary— 25
- (a) to make rules specifying performance measures in relation to groups of activities that are additional to those described in subsection (1):
- (b) to review the effectiveness of specified rules made under this section.
- (2B) A notice under **subsection (2A)** may specify that the Minister must approve the content of specified rules before they are made. 30
- (2C) A notice under **subsection (2A)** is not a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
- 34 Schedule 1AA amended**
- (1) Replace the Schedule 1AA heading with: 35

Schedule 1AA		
Transitional, savings, and related provisions		
		s 8A
Part 1		
Provisions relating to Local Government Act 2002 Amendment Act 2014		5
(2)	In Schedule 1AA, after clause 13, insert the Part 2 set out in Schedule 1 of this Act.	
35	Schedule 3 amended	
	Amend Schedule 3 as set out in Schedule 2 of this Act.	10
36	Schedule 4 amended	
	Amend Schedule 4 as set out in Schedule 3 of this Act.	
37	Schedule 8 replaced	
	Replace Schedule 8 with the Schedules 8 to 8B set out in Schedule 4 of this Act.	15
38	Schedule 10 amended	
(1)	In Schedule 10, replace clause 4(a) with:	
	(a) any performance measures specified in a rule made under section 261B for each group of activities—	
	(i) described in clause 2(2); or	20
	(ii) in relation to which the Minister directed, under section 261B(2A)(a) , that the Secretary must make rules specifying performance measures.	
(2)	In Schedule 10, after clause 6, insert:	
6A	Disclosure of corporate accountability information	25
	A long-term plan must include any corporate accountability information relating to the local authority that is required by regulations made under section 259(1)(df) .	

Part 2 Amendments to other enactments

Amendments to Local Government (Auckland Council) Act 2009

- 39 Local Government (Auckland Council) Act 2009 amended** 5
Sections 40 to 43 amend the Local Government (Auckland Council) Act 2009.
- 40 New section 59A inserted**
After section 59, insert:
- 59A Capital charging by Auckland water organisations** 10
Sections 61D and 63A to 63D of the Local Government Act 2002 apply to an Auckland water organisation that is a council-controlled organisation, and to the Council, as if the Auckland water organisation were a substantive council-controlled organisation under that Act.
- 41 Section 97 amended (Disputes about allocation of decision-making responsibilities or proposed bylaws)** 15
Replace section 97(3) and (4) with:
- (3) If, after acting under subsection (2), the dispute is still unresolved, 1 or more local boards may refer the matter to the Commission for resolution in accordance with **section 31H** of the Local Government Act 2002.
- (4) For the purposes of **section 31H(5)(b)(i)** of that Act, matters that the Commission must have regard to are— 20
- (a) the requirements of this Act; and
- (b) the current and future well-being of the communities of Auckland, and the interests and preferences of the communities within each affected local board area.
- 42 Section 98 amended (Local Government Commission to determine disputes)** 25
- (1) Replace the heading to section 98 with “**Effect of Commission determination of dispute as to content of LTP**”.
- (2) Repeal section 98(1) to (5).
- 43 Section 99 repealed (Local Government Commission may delegate duty to determine dispute)** 30
Repeal section 99.

Amendments to other enactments

44 Consequential amendments to other enactments

Amend the enactments specified in **Schedule 5** as set out in that schedule.

Schedule 1
New Part 2 inserted in Schedule 1AA

s 34

Part 2		
Provisions relating to Local Government Act 2002 Amendment Act		5
(No 2) 2016		
14	Transitional provision relating to scope of local government reorganisations	
(1)	In this clause,—	
	relevant amendments means the amendments to subpart 2 of Part 3 and to Schedule 3 made by sections 8 to 14 and 35 of the Local Government Act 2002 Amendment Act (No 2) 2016	10
	relevant provisions means the provisions in subpart 2 of Part 3 and Schedule 3.	
(2)	The relevant amendments do not apply to a local government reorganisation for which a final proposal was publicly notified under clause 22 of Schedule 3 before the repeal of that clause and the commencement of the relevant amendments. The relevant provisions continue to apply as if the relevant amendments had not been made.	15
(3)	Subclause (4) applies if, before the commencement of the relevant amendments, the Local Government Commission—	20
	(a) had given notice of a draft proposal under clause 20 of Schedule 3; but	
	(b) had not made a decision under clause 21(1) of that Schedule in respect of that draft proposal.	
(4)	If this subclause applies,—	25
	(a) the relevant amendments apply to consideration of the draft proposal as if it were a reorganisation investigation under subpart 2 of Part 1 of Schedule 3; but	
	(b) the Commission must complete the consultation required by clause 20 of Schedule 3 as if that clause had not been repealed, before taking any action under Part 2 of Schedule 3.	30
(5)	Subclause (6) applies if, before the commencement of the relevant amendments, the Local Government Commission—	
	(a) had notified its decision to assess an application under clause 6 of Schedule 3; and	35
	(b) had not completed a draft proposal under clause 14 of that schedule for the affected area.	

- (6) If this subclause applies,—
- (a) the relevant amendments apply to the application, and to any alternative applications relating to the application received under clause 10 of Schedule 3, as if each application were a reorganisation initiative under **subpart 1 of Part 1 of Schedule 3**; but 5
 - (b) the Commission must undertake 1 or more investigations covering the proposals in the application or applications, and **clause 5 of Schedule 3** does not apply.
- 15 Transitional provision relating to Commission’s first statement of intent** 10
The Commission must prepare its first statement of intent under **section 31B** in relation to the period commencing on 1 July 2017.
- 16 Transitional provision relating to Commission’s annual work programme**
The Commission must prepare its first annual work programme under **section 31C** in relation to the financial year commencing on 1 July 2017.
- 17 Transitional provision relating to Commission’s annual report** 15
- (1) The Commission must prepare its first annual report under **section 31F** in relation to the financial year commencing on 1 July 2017.
 - (2) The Commission must prepare its annual report for the financial year commencing on 1 July 2016 as if the Local Government Act 2002 Amendment Act **(No 2) 2016** had not been enacted. 20
- 18 Transitional provision relating to local board disputes**
Section 48S applies to any application under section 48R(3) that is received by the Commission before the commencement of **sections 17 and 20** of the Local Government Act 2002 Amendment Act **(No 2) 2016** as if that Act had not been enacted. 25
- 19 Transitional provision applying to contents of constitution of substantive council-controlled organisation**
- (1) This clause applies to a substantive council-controlled organisation that was in existence immediately before the commencement of **section 22** of the Local Government Act 2002 Amendment Act **(No 2) 2016**. 30
 - (2) The shareholders of the organisation must take any actions that are necessary to ensure that the constitution of the organisation complies with **section 56R** by 30 June 2018.
- 20 Transitional provision applying to accountability policy for substantive council-controlled organisation** 35
- (1) This clause applies to a local authority that was the sole shareholder in 1 or more substantive council-controlled organisations immediately before the com-

	mencement of section 22 of the Local Government Act 2002 Amendment Act (No 2) 2016.	
(2)	The local authority is not required to adopt an accountability policy under section 56S before the financial year commencing on 1 July 2017.	
21	Transitional provision applying to governance of multiply owned substantive council-controlled organisation	5
(1)	This clause applies to a multiply owned substantive council-controlled organisation that was in existence immediately before the commencement of section 22 of the Local Government Act 2002 Amendment Act (No 2) 2016.	
(2)	The shareholders of the organisation are not required to establish a joint committee under section 56W earlier than 1 July 2017.	10
(3)	The shareholders of the organisation are not required to adopt an accountability policy under section 56S before the financial year commencing on 1 July 2017.	

Schedule 2

Amendments to Schedule 3

s 35

Clause 1

- In Schedule 3, replace clause 1(3) and (4) with: 5
- (3) **Part 1** contains 2 subparts, as follows:
- (a) **subpart 1**—
- (i) provides that any person, body, or group may submit to the Commission—
- (A) a reorganisation initiative; or 10
- (B) a request for an investigation; and
- (ii) specifies what a reorganisation initiative and a request for an investigation must contain; and
- (iii) empowers the Commission to decide whether to undertake an investigation in response to a reorganisation initiative or request for an investigation; and 15
- (b) **subpart 2**—
- (i) empowers the Commission to undertake an investigation of its own motion; and
- (ii) authorises the Commission to develop, document, and publish the process for an investigation; and 20
- (iii) authorises the Commission to issue reports, with recommendations to which a local authority must respond, in the course of an investigation.
- (4) Part 2 contains 5 subparts, as follows: 25
- (a) **subpart 1** empowers the Commission to develop and adopt reorganisation plans; and
- (b) **subpart 1A**—
- (i) prescribes what a reorganisation plan may contain; and
- (ii) provides for the Commission to issue and notify a reorganisation plan; and 30
- (c) **subpart 1B** empowers 1 or more local authorities to—
- (i) develop and publicly consult on a reorganisation plan; and
- (ii) submit the reorganisation plan to the Commission for approval; and 35
- (d) subpart 2 provides for the holding of a poll on plans for major reorganisations; and

Clause 1—*continued*

- (e) subpart 3 places restrictions on advertising by a local authority to promote or oppose a reorganisation plan in the period from the issue of the plan to when a poll is held. This subpart contains an exception for publication of material that is factual or referential.

In Schedule 3, replace clause 1(6) with:

- (6) Part 4 contains 4 subparts, as follows:
 - (a) subpart 1 requires the Commission to prepare a reorganisation implementation scheme if no poll is required on a reorganisation plan, or if a poll has been held and has not defeated the reorganisation plan; and
 - (b) subpart 2 specifies the matters the Commission must and may include in a reorganisation implementation scheme; and
 - (c) subpart 3 contains provisions that apply to a reorganisation implementation scheme unless amended or declared not to apply by the scheme; and
 - (d) **subpart 4** contains provisions that establish the tax treatment of assets transferred in a reorganisation.

In Schedule 3, clause 1(6)(b) and (c), replace “reorganisation scheme” with “reorganisation implementation scheme”.

Clause 2

In Schedule 3, clause 2, replace the definition of **affected area** with:

- affected area**,—
- (a) in relation to a reorganisation investigation, means an area affected, or potentially affected, by 1 or more of the matters to be investigated; and
 - (b) in relation to a reorganisation initiative or plan, means—
 - (i) an area that would be included in the district or region of a new or different local authority if local government in relation to the area were to be reorganised in accordance with the initiative or plan;
 - (ii) an area that would remain in the district or region of a local authority with changed responsibilities, duties, or powers, if local government in relation to the area were to be reorganised in accordance with the initiative or plan;
 - (iii) an area to which local authority activities or services would be provided by a different local authority organisation if local government in relation to the area were to be reorganised in accordance with the initiative or plan;
 - (iv) if the initiative or plan relates solely to 1 or more matters described in **section 24(1)(o) to (s)**, the area comprising the district of the unitary authority; and

Clause 2—*continued*

- (c) in the case of a plan to which **clause 23(1)(e)** applies (which relates to the transfer from one local authority to another of responsibilities, duties, and powers under the Resource Management Act 1991 or in relation to water services or transport services) means the districts or regions of both local authorities

5

In Schedule 3, clause 2, definition of **implementation date**, replace “final proposal” with “Order”.

In Schedule 3, clause 2, repeal the definitions of **local board reorganisation application** and **reorganisation application**.

In Schedule 3, clause 2, definition of **public notice**, replace “reorganisation application, draft proposal, or final proposal” with “reorganisation investigation or reorganisation plan”.

10

In Schedule 3, clause 2, insert in their appropriate alphabetical order:

investigation request means a request to the Commission by a person, body, or group, including a local authority or the Minister, in accordance with **clause 3**, to conduct a reorganisation investigation into an issue or a matter but without proposing a particular reorganisation

15

reorganisation implementation scheme means a scheme prepared under Parts 3 and 4 of this schedule to give effect to a reorganisation plan

reorganisation initiative or **initiative** means a request to the Commission by a person, body, or group, including a local authority or the Minister, to consider a proposed reorganisation

20

reorganisation investigation or **investigation** means an investigation by the Commission under section 31(1), of its own motion or in response to a reorganisation initiative or an investigation request, that may result in the development and adoption of a reorganisation plan

25

reorganisation plan means a plan adopted by the Commission, during or after an investigation, that includes 1 or more of the matters in **section 24**

Part 1

In Schedule 3, replace Part 1 with:

30

Part 1—continued**Part 1****Reorganisation investigations****Subpart 1—Reorganisation initiatives and investigation requests****3 Who may propose reorganisation initiative or make investigation request**

- (1) A reorganisation initiative may be proposed, or an investigation request may be made, to the Commission by any person, body, or group, including (but not limited to)— 5
- (a) 1 or more affected local authorities;
 - (b) the Minister.
- (2) The reorganisation initiative or an investigation request must be submitted to the chief executive officer of the Commission. 10

4 Contents of reorganisation initiative or investigation request

- (1) A reorganisation initiative or investigation request must include the following:
- (a) the name and address of the person submitting the initiative or request; and 15
 - (b) if more than 1 person is submitting the initiative or request, the name and address of the person who is the representative of those persons; and
 - (c) in the case of an initiative, a description of the proposed changes, including (but not limited to)— 20
 - (i) which of the matters listed in **section 24(1)** is being sought; and
 - (ii) a plan or other description sufficient to identify the affected area or affected areas concerned; and
 - (iii) an explanation of the outcome that the proposed changes are seeking to achieve; and
 - (d) in the case of an investigation request, a description of the matter, issue, problem, or opportunity to be investigated. 25
- (2) A reorganisation initiative may include—
- (a) any information requested or recommended in any guidelines issued by the Commission; and
 - (b) information that demonstrates that the initiative has community support in the affected area; and 30
 - (c) any other information that the person submitting the initiative considers relevant to the Commission’s consideration of the initiative.

Part 1—continued

5	Action on receipt of reorganisation initiative or investigation request	
	As soon as practicable after receiving a reorganisation initiative or an investigation request, the Commission must—	
	(a) decide whether to undertake an investigation, having regard to the factors listed in clause 7 ; and	5
	(b) notify the person who submitted the initiative or request, or that person's representative, of its decision; and	
	(c) if the Commission decides not to undertake an investigation, explain the reasons for that decision in the notice under paragraph (b) ; and	
	(d) if the Commission decides to undertake an investigation, notify the affected local authorities of that decision.	10
	Subpart 2—Reorganisation investigations	
6	Commission may initiate reorganisation investigation	
(1)	The Commission may, at any time, of its own motion, decide to undertake a reorganisation investigation in relation to any issue or matter affecting 1 or more local authorities.	15
(2)	If the Commission decides to undertake a reorganisation investigation under subclause (1) , it must notify the affected local authorities of that decision.	
7	Factors Commission must have regard to when deciding whether to undertake reorganisation investigation	20
	When deciding whether to undertake a reorganisation investigation under clause 5(a) or 6 , the Commission must have regard to—	
	(a) the purpose of reorganisation set out in section 24AA ; and	
	(b) the potential scale and scope of improvements to local governance and services that might result from the investigation; and	25
	(c) any time or other constraints that apply to the opportunity to achieve potential improvements to local governance and services; and	
	(d) the need for urgent resolution of any problem identified by the Commission, or in the investigation request or reorganisation initiative; and	
	(e) the priority issues and objectives set out in the Commission's annual work programme developed under section 31C ; and	30
	(f) the resources available to the Commission to undertake the investigation in a timely manner; and	
	(g) the likelihood of significant community opposition to any reorganisation that might result from the investigation.	35

Part 1—continued

8	Commission must adopt reorganisation investigation process	
(1)	As soon as practicable after it makes a decision under clause 5(a) or 6 to undertake a reorganisation investigation, the Commission must determine and adopt a process for the investigation and record that process in writing.	
(2)	The process document must set out how the Commission intends to undertake the investigation, including—	5
	(a) the matters to be investigated; and	
	(b) the affected area and the local authorities affected by the investigation; and	
	(c) the procedure and timetable for the investigation; and	10
	(d) the key stakeholders, and how and when they will be given an opportunity to engage with the investigation; and	
	(e) how and when members of the public will be consulted on the investigation and any proposed recommendations or reorganisation plans that may result; and	15
	(f) any other matter that the Commission considers relevant.	
(3)	In determining the matters referred to in subclause (2) , and in undertaking an investigation, the Commission must have regard to the following principles:	
	(a) early information should be available to the public and stakeholders about the issues to be investigated, the process to be followed, and the opportunities for public input; and	20
	(b) the process should be in proportion to the scale, scope, and potential impact of the identified issues and of any reorganisation plan that may result from the investigation; and	
	(c) the process should recognise the relevant evidence and information that the Commission already holds; and	25
	(d) the extent and nature of public and stakeholder engagement should—	
	(i) reflect the degree of public interest (including of iwi) in the issues and in any reorganisation plan that may result from the investigation; and	30
	(ii) reflect the importance of—	
	(A) stakeholder input; and	
	(B) community engagement; and	
	(C) public acceptance of the process and the potential outcome; and	35
	(iii) appropriately balance the costs and benefits of different processes.	

Part 1—continued

- (4) The Commission may adopt an amendment to a process document under **sub-clause (1)** at any time and must do so if there is a significant departure from the process.
- (5) The Commission must, as soon as practicable after adopting or amending a process document,— 5
- (a) publish the process document in full on its Internet site; and
- (b) give public notice within the affected area of the publication and location of the process document; and
- (c) notify all affected local authorities and other key stakeholders identified by the Commission of the publication and location of the process document. 10
- 9 Commission may require assistance and undertake inquiries when conducting investigations and preparing reorganisation plan**
- (1) In conducting an investigation or preparing a reorganisation plan, the Commission may require a local authority or a council-controlled organisation that is affected by the investigation or the plan to provide information to assist the Commission. 15
- (2) In conducting an investigation or preparing a reorganisation plan, the Commission may undertake inquiries and consultation in relation to the investigation or plan with any persons, bodies, and groups that it considers appropriate. 20
- 10 Commission may issue report**
- (1) The Commission may, at any time during a reorganisation investigation, or at the completion of the investigation, issue a report and make recommendations to any local authority on any matter arising in the course of, or ancillary to, the investigation. 25
- (2) Section 26A applies to a report and recommendations under this clause.
- 11 Objectives that Commission must consider in reorganisation investigation**
- In assessing the desirability of options for the reorganisation of local government within the affected area, the Commission must consider how best to achieve— 30
- (a) better fulfilment of the purpose of local government as specified in section 10; and
- (b) productivity improvements within the affected local authorities; and
- (c) efficiencies and cost savings; and
- (d) assurance that any local authority established or changed has the resources necessary to enable it to effectively perform or exercise its responsibilities, duties, and powers; and 35

Part 1—continued

(e)	effective responses to the opportunities, needs, and circumstances of the affected areas; and	
(f)	enhanced effectiveness, efficiency, and sustainability of local government services; and	
(g)	better support for the ability of local and regional economies to develop and prosper; and	5
(h)	enhanced ability of local government to meet the changing needs of communities for governance and services into the future; and	
(i)	effective provision for any co-governance and co-management arrangements between local government and iwi or Māori organisations that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations.	10
11A	Completion of investigation	
	As soon as practicable after completing an investigation, the Commission must—	15
(a)	give public notice of the completion of the investigation; and	
(b)	notify all affected local authorities and other key stakeholders of the completion of the investigation; and	
(c)	record the completion of the investigation on its Internet site.	20

Part 2 heading

In Schedule 3, replace the Part 2 heading with:

Part 2
Reorganisation plans

New subpart 1 of Part 2 and subpart 1A heading 25

In Schedule 3, after the Part 2 heading (as amended by this Schedule), insert:

Subpart 1—Adoption and notification of reorganisation plan

12	Commission may adopt reorganisation plan	
(1)	The Commission may, during or at the completion of a reorganisation investigation,—	30
(a)	develop 1 or more reorganisation plans in accordance with the provisions of clause 11 and subpart 1A of this Part ; and	
(b)	adopt 1 or more reorganisation plans.	

New subpart 1 of Part 2 and subpart 1A heading—continued

- (2) In deciding whether to adopt a reorganisation plan, the Commission must have regard to—
- (a) the scale of the potential benefits of the proposed changes to users of local government services in that area, and the likelihood of those benefits being realised; and 5
 - (b) the financial, disruption, and opportunity costs of implementing the proposed changes at the proposed time; and
 - (c) the risks and consequences of not implementing the proposed changes at the proposed time; and
 - (d) existing communities of interest and the extent to which the proposed changes will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them; and 10
 - (e) the degree and distribution of any public opposition to the proposed changes within communities in the affected area.
- (3) The Commission must not adopt a reorganisation plan under this clause that affects the application of any Act enacted to give effect to a deed of settlement of a claim under the Treaty of Waitangi, without first consulting all affected iwi or Māori organisations, the Attorney-General, and the Minister for Treaty of Waitangi Negotiations. 15
- (4) A reorganisation plan to which **subsection (3)** applies must provide for at least the same level and scope of participation in decision making by iwi or Māori organisations as the arrangement specified in the Act that gives effect to the deed of settlement. 20
- 13 Notification of reorganisation plan**
- (1) As soon as practicable after adopting a reorganisation plan, the Commission must— 25
- (a) give public notice of the plan and, in the notice, specify where copies of the plan may be inspected; and
 - (b) take any other action that it considers necessary to inform persons, bodies, and groups that the Commission identifies as having an interest in the plan. 30
- (2) The Commission must attach to the reorganisation plan a full and detailed statement that—
- (a) explains how the plan will achieve the objectives set out in **clause 11**; and 35
 - (b) provides a balanced assessment of the reorganisation plan and outlines the advantages and disadvantages of the proposal in respect of—
 - (i) a proposed new or altered district or region; and

New subpart 1 of Part 2 and subpart 1A heading—*continued*

- (ii) any remaining area of a district or region affected by the proposal; and
- (iii) any changes to the responsibilities of each affected local authority; and
- (iv) any change to how a local government service is managed and provided. 5

Subpart 1A—Content of reorganisation plans**Clause 14**

In Schedule 3, replace clause 14 with:

- 14 Content of reorganisation plan** 10
- (1) Before adopting a reorganisation plan under **clause 12**, the Commission must ensure that the plan complies with the requirements in this clause.
- (2) The reorganisation plan must describe, for each affected local authority proposed to be continued,—
- (a) the type of local authority; and 15
 - (b) the name of the district or region of the local authority; and
 - (c) the nature and extent of any proposed changes to—
 - (i) the boundaries of the district or region; and
 - (ii) the representation arrangements of the local authority; and
 - (iii) the extent to which the areas of interest of iwi and hapū are included in the district or region; and 20
 - (iv) in the case of a unitary authority, any local board areas and any local boards of the local authority; and
 - (v) any communities and any community boards of the local authority; and 25
 - (vi) the committees of the local authority; and
 - (vii) the council-controlled organisations of which the local authority is a shareholder; and
 - (viii) the statutory obligations of the local authority; and
 - (ix) any constraints imposed on the local authority's exercise of the discretion conferred by **section 12(2)**; and 30
 - (d) any other matters the Commission considers necessary or desirable.
- (3) The reorganisation plan must describe, for each local authority proposed to be established,—
- (a) the type of local authority; and 35

Clause 14—*continued*

- | | | |
|-------|--|----|
| (b) | the name of the district or region of the local authority; and | |
| (c) | the boundaries of the district or region; and | |
| (d) | the representation arrangements of the local authority; and | |
| (e) | the names and areas of interest of iwi and hapū in the district or region;
and | 5 |
| (f) | the council-controlled organisations of which the local authority will be
a shareholder; and | |
| (g) | any local board areas and any local boards of the local authority; and | |
| (h) | any communities and any community boards of the local authority; and | |
| (i) | any other matters the Commission considers necessary or desirable. | 10 |
| (4) | However, the Commission may, if it considers it more appropriate to do so, de-
fer including in a reorganisation plan the representation arrangements or com-
munity board arrangements, or both, and include them in the reorganisation im-
plementation scheme. | |
| (5) | The reorganisation plan must also— | 15 |
| (a) | contain information about the role, powers, and composition of the tran-
sition body, including— | |
| (i) | whether the transition body will include a transition board; and | |
| (ii) | if a transition board will be included in a transition body, how
each affected local authority will be represented on the transition
board and whether the transition board will include other persons;
and | 20 |
| (iii) | whether an interim chief executive will be appointed for any local
authority under clause 38; and | |
| (iv) | if an interim chief executive will be appointed, which of the
powers listed in clause 39(1) may be exercised by the interim
chief executive; and | 25 |
| (b) | have attached to it a full and detailed explanation of the advantages and
disadvantages of the plan and of how it will promote good local govern-
ment. | 30 |

Clause 15

In Schedule 3, replace clause 15(1) with:

- | | | |
|-----|---|----|
| (1) | Before adopting a reorganisation plan under clause 12 that proposes the con-
tinuation or constitution of a unitary authority, the Commission must ensure
that the plan complies with the requirements in this clause. | 35 |
|-----|---|----|

In Schedule 3, clause 15(2), replace “a draft proposal in relation to the affected area” with “the reorganisation plan”.

Clause 15—*continued*

In Schedule 3, clause 15(4), replace “A draft proposal” with “If a reorganisation plan includes provision for local boards, that plan”.

In Schedule 3, clause 15(6), replace “draft proposal” with “reorganisation plan”.

In Schedule 3, clause 15(7), replace “clauses 14(3)(f)” with “**clauses 14(3)(h)**”.

In Schedule 3, clause 15(7), replace “draft proposal” with “reorganisation plan”. 5

Clause 16

In Schedule 3, clause 16, replace “draft proposal” with “reorganisation plan”.

Clause 17

In Schedule 3, clause 17, replace “draft proposal” with “reorganisation plan”.

Clause 18

10

In Schedule 3, clause 18, replace “draft proposal” with “reorganisation plan”.

In Schedule 3, clause 18, replace “reorganisation scheme” with “reorganisation implementation scheme”.

Clause 19

In Schedule 3, clause 19, replace “draft proposal” with “reorganisation plan”. 15

In Schedule 3, clause 19, replace “reorganisation scheme” with “reorganisation implementation scheme”.

Clauses 20 to 22

In Schedule 3, replace clauses 20 to 22 with:

20 Council-controlled organisations

20

(1) Before adopting a reorganisation plan under **clause 12** that proposes the establishment or disestablishment of a council-controlled organisation or a modification of the shareholding of a council-controlled organisation, the Commission must ensure that the plan complies with the requirements in this clause and **clause 20A**.

25

(2) If the reorganisation plan includes the establishment of a new council-controlled organisation, the plan must specify whether it is to be—

(a) a multiply owned council-controlled organisation:

(b) a council-controlled trading organisation:

(c) a water services council-controlled organisation:

30

(d) a transport services council-controlled organisation.

(3) If the reorganisation plan includes a modification of the shareholding of an existing council-controlled organisation, the plan must specify—

(a) the current shareholders; and

Clauses 20 to 22—continued

- (b) the local authorities that are to become shareholders; and
- (c) any transfers of funds, assets, or resources that will be effected or required by the plan.
- (4) If the reorganisation plan includes the disestablishment of a council-controlled organisation, the plan must specify how any assets and liabilities of that organisation are to be allocated. 5
- (5) If the reorganisation plan includes the establishment or continued existence of a water services council-controlled organisation, the plan must specify the responsibilities, duties, and powers set out in **Schedule 8A** that are conferred on that council-controlled organisation. 10
- (6) If the reorganisation plan includes the establishment of a new water services council-controlled organisation or transport services council-controlled organisation, the plan must provide for a transition body to develop a draft of the initial statement of intent for that organisation required by **clause 1 of Schedule 8**. 15
- 20A Conferring responsibilities, duties, and powers on transport services council-controlled organisations**
- (1) If a reorganisation plan includes the establishment or continued existence of a transport services council-controlled organisation, the plan may specify— 20
- (a) the responsibilities, duties, and powers set out in **Schedule 8B** that are conferred on that council-controlled organisation; and
- (b) the districts or regions in respect of which those responsibilities, duties, and powers must be exercised.
- (2) Unless **subclause (3)** applies, the Commission must obtain the written approval of the Minister of Transport before adopting a reorganisation plan that confers responsibilities, duties, and powers on a transport services council-controlled organisation. 25
- (3) Written approval of the Minister of Transport is not required if— 30
- (a) a reorganisation plan confers on a transport services council-controlled organisation—
- (i) all of the responsibilities, duties, and powers set out in **Schedule 8B**; or
- (ii) all of the responsibilities, duties, and powers set out in **Part 1 of Schedule 8B** and no other statutory responsibilities, duties, or powers; and 35
- (b) the transport services council-controlled organisation will perform or exercise responsibilities, duties, and powers in respect of 1 or more whole regions.

Clauses 20 to 22—continued

- (4) The Commission must, for the purposes of **section 56P**, notify the Minister for the Environment of the adoption of a reorganisation plan to which **sub-clause (3)** applies.
- (5) If a reorganisation plan confers the responsibilities, duties, and powers of a Regional Transport Committee on a transport services council-controlled organisation, the plan must provide for the board of directors of the organisation to include 1 non-voting director nominated by the New Zealand Transport Agency (who may be a person who is the holder of an identified office or position within the New Zealand Transport Agency). 5
- 21 Transfer of functions** 10
- (1) Before adopting a reorganisation plan under **clause 12** that proposes the transfer of a responsibility, duty, power, or non-statutory function, the Commission must ensure that the plan complies with the requirements in this clause.
- (2) Without limiting **section 24(1)(e)**, a reorganisation plan may provide for the transfer of a responsibility, duty, power, or non-statutory function— 15
- (a) from a regional council to a territorial authority or from a territorial authority to a regional council; or
- (b) from one regional council to another; or
- (c) from one territorial authority to another.
- (3) The transfer of a responsibility, duty, power, or non-statutory function may apply in respect of all or part of the region or territory of the transferring regional council or territorial authority. 20
- (4) Before adopting a reorganisation plan that provides for the transfer of a responsibility, duty, or power, the Commission must consult the Minister responsible for the enactment that confers the responsibility, duty, or power on the affected local authorities. 25
- (5) If a reorganisation plan includes the transfer of a non-statutory function, the plan may—
- (a) prohibit the local authority from which the non-statutory function, is to be transferred from undertaking any specified activity or incurring expenses for any specified purpose; and 30
- (b) require the local authority to which the non-statutory function is to be transferred to achieve specified service levels in the provision of that function.
- (6) If the reorganisation plan includes the transfer of a responsibility, duty, power, or non-statutory function to a territorial authority or regional council outside the district or region to which the transferred matter relates, the plan must prescribe the constitution of committees or other governance arrangements that will ensure that— 35

Clauses 20 to 22—*continued*

(a)	persons and communities in each district or region to which the responsibility, duty, power, or non-statutory function relates are represented in decision making that relates to that responsibility, duty, power, or non-statutory function; and	
(b)	the territorial authority or regional council is accountable to all persons and communities affected by the performance or exercise of the responsibility, duty, or power, or by the provision of the non-statutory function.	5
21A Committees and joint committees		
(1)	Before adopting a reorganisation plan under clause 12 that proposes the establishment of 1 or more committees of a local authority, or 1 or more joint committees, the Commission must ensure that the plan complies with the requirements in this clause.	10
(2)	Without limiting section 24(1)(m) , the reorganisation plan may provide for the establishment of 1 or more—	
(a)	committees and joint committees that are permanent committees; or	15
(b)	committees and joint committees that must not be disestablished before a date specified in the plan.	
(3)	The reorganisation plan may specify—	
(a)	the membership of a committee:	
(b)	the terms of reference of a committee:	20
(c)	any delegations to the committee:	
(d)	when and how the matters in paragraphs (a) to (c) may be varied.	
(4)	If the reorganisation plan provides for a joint committee of an affected local authority, with 1 or more other local authorities or other public bodies, it may specify—	25
(a)	the membership of the joint committee:	
(b)	the terms of reference of the joint committee:	
(c)	any delegations to the joint committee by the affected local authority:	
(d)	when and how the matters in paragraphs (a) to (c) may be varied:	
(e)	any other matter relating to the appointment, operation, or responsibilities of the joint committee.	30
(5)	The Commission must not adopt a reorganisation plan that includes provision for a joint committee without first obtaining the written agreement of every public body, other than an affected local authority, that is to be a party to the joint committee.	35

Clauses 20 to 22—continued**22 Local authorities with joint roles**

- (1) This clause applies if a reorganisation plan under **clause 12** provides for the performance and exercise by a local authority of both—
- (a) the responsibilities, duties, and powers of a regional council in respect of a region; and 5
 - (b) the responsibilities, duties, and powers of a territorial authority in respect of a district that constitutes a part only of that region.
- (2) Before adopting the reorganisation plan, the Commission must ensure that it prescribes the constitution of committees or other governance arrangements that will ensure that— 10
- (a) persons and communities in the region and the district to which the roles relate are represented in the performance or exercise of the responsibilities, duties, and powers of the regional council and the territorial authority respectively; and
 - (b) the bodies performing and exercising the responsibilities, duties, and powers of the regional council and territorial authority respectively are each accountable to all affected persons and communities. 15

New subpart 1B of Part 2

In Schedule 3, Part 2, before subpart 2, insert:

Subpart 1B—Local authority-led reorganisation applications 20

22A Local authorities may develop reorganisation plan

- (1) One or more local authorities may develop a reorganisation plan in accordance with this clause.
- (2) Except as provided in **subclause (3), clause 11 and subparts 1 and 1A of this Part** apply to every reorganisation plan developed under **subclause (1)** as if references to the Commission in that clause and those subparts were references to the local authority or local authorities developing the plan. 25
- (3) **Clause 14(4)** does not apply to a reorganisation plan under this clause.
- (4) A local authority intending to develop a reorganisation plan under this clause must ensure that written notice of that intention is given to the Commission as soon as is reasonably practicable. 30

22B Application to Commission

- (1) One or more local authorities may submit a reorganisation plan developed under **clause 22A** to the Commission in accordance with this clause (a **local authority-led reorganisation application**). 35
- (2) The reorganisation plan must be accompanied by—

New subpart 1B of Part 2—continued

- | | |
|--|----|
| <ul style="list-style-type: none"> (a) a statement that complies with clause 13(2); and (b) a report from each affected local authority, adopted by that local authority, that records— <ul style="list-style-type: none"> (i) that local authority’s unconditional support for the plan; and (ii) the public consultation undertaken by that local authority; and (iii) the themes and outcomes of that consultation. | 5 |
|
 | |
| 22C Commission review of local authority-led reorganisation application | |
| <ul style="list-style-type: none"> (1) As soon as practicable after receiving a local authority-led reorganisation application submitted in accordance with clause 22B, the Commission must review that application. | 10 |
| <ul style="list-style-type: none"> (2) The Commission must approve the reorganisation plan to which the local authority-led reorganisation application relates unless— <ul style="list-style-type: none"> (a) the reorganisation plan is not accompanied by the documentation required by clause 22B; or (b) the Commission considers, on reasonable grounds, that— <ul style="list-style-type: none"> (i) the provisions in clause 11 and subpart 1 of this Part were not complied with in developing the plan, as required by clause 22A(2); or (ii) the plan does not have the support of affected communities. | 15 |
| <ul style="list-style-type: none"> (3) The Commission must not approve the reorganisation plan to which the local authority-led reorganisation application relates if subclause (2)(a) or (b) applies. | 20 |
| <ul style="list-style-type: none"> (4) If the Commission approves a reorganisation plan under this clause,— <ul style="list-style-type: none"> (a) subparts 2 and 3 of this Part do not apply; and (b) Parts 3 and 4 of this schedule apply as if the plan had been adopted under clause 12. | 25 |
| <ul style="list-style-type: none"> (5) As soon as practicable after the Commission approves a reorganisation plan under this clause,— <ul style="list-style-type: none"> (a) the Commission must notify each affected local authority of its decision; and (b) the Minister must determine whether to recommend the making of an Order in Council under section 25. | 30 |
| <ul style="list-style-type: none"> (6) If the Commission does not approve a reorganisation plan under this clause, the Commission— <ul style="list-style-type: none"> (a) must notify each affected local authority of its decision and the reasons for it; and | 35 |

New subpart 1B of Part 2—continued

- (b) may undertake an investigation into any matter related to the content of the local authority-led reorganisation application.

Clause 23

In Schedule 3, replace clause 23 with:

- 23 Application of this subpart** 5
- (1) This subpart applies to a reorganisation plan adopted under **clause 12** that provides for any of the following matters:
- (a) the union of districts or regions:
- (b) the constitution of a new district or region, including the constitution of a new local authority for that district or region: 10
- (c) the abolition of a district or region, including the dissolution or abolition of the local authority for that district or region:
- (d) the assumption by a territorial authority of the powers of a regional council as a unitary authority; and
- (e) the transfer from one local authority to another of— 15
- (i) responsibilities, duties, and powers in relation to water services or transport services; or
- (ii) responsibilities, duties, and powers under the Resource Management Act 1991.
- (2) Despite **subclause (1)(e)**, this subpart does not apply to a transfer of responsibilities, duties, and powers described in that subclause if the Commission is satisfied, on reasonable grounds, that the transfer— 20
- (a) is not a major transfer; or
- (b) has the support of all affected local authorities.
- (3) For the purposes of **subclause (2)**, a transfer of responsibilities, duties, and powers is a **major transfer** if the responsibilities, duties, or powers to be transferred— 25
- (a) represent 50% or more of the transferring local authority's operational expenditure, or assets, or staff, in respect of water services, transport services, or resource management functions (as the case may be); or 30
- (b) include responsibility for preparing a policy statement, plan, variation, or plan change under the Resource Management Act 1991.

Clause 24

In Schedule 3, repeal clause 24.

Clause 25

In Schedule 3, replace clause 25(1) with:

- (1) A poll of electors on the reorganisation plan must be held in the affected area.

Clause 26

In Schedule 3, clause 26(4)(b), replace “final proposal” with “reorganisation plan”. 5

Clause 28

In Schedule 3, in the heading to clause 28, replace “**proposal**” with “**reorganisation plan**”.

In Schedule 3, clause 28(1) and (2), replace “final proposal” with “reorganisation plan”. 10

Clause 29

In Schedule 3, clause 29, replace the definition of **specified period** with:

specified period means the period commencing on the day after the date on which public notice of the plan is first given under **clause 13** and ending with the close of the day on which the poll is held 15

Clause 30

In Schedule 3, clause 30, replace “final proposal” with “reorganisation plan” in each place.

Clause 31

In Schedule 3, clause 31, replace “final proposal” with “reorganisation plan” in each place. 20

In Schedule 3, clause 31(1)(b)(ii), delete “promoting or signing a petition for the purposes of subpart 2 or”.

Clause 32

In Schedule 3, clause 32(1), replace “final proposal” with “reorganisation plan” in each place. 25

Clause 33

In Schedule 3, clause 33, replace “final proposal that is issued under clause 21 and notified under clause 22” with “reorganisation plan that is adopted under **clause 12** and notified under **clause 13**”. 30

In Schedule 3, replace clause 33(a)(i) with:

- (i) has not been held because subpart 2 of Part 2 of this schedule does not apply to the reorganisation plan; or

In Schedule 3, clause 33(a)(ii), replace “final proposal” with “reorganisation plan”.

Clause 33—*continued*

In Schedule 3, clause 33(b), replace “final proposal is to be” with “reorganisation plan has been”.

Clause 34

In Schedule 3, clause 34, replace “final proposal” with “reorganisation plan” in each place. 5

In Schedule 3, clause 34(3)(a), replace “final reorganisation proposal” with “reorganisation plan”.

Clause 35

In Schedule 3, clause 35(3), replace “final proposal” with “reorganisation plan”.

Part 4 heading 10

In schedule 3, in the Part 4 heading, replace “**Reorganisation schemes**” with “**Reorganisation implementation schemes**”.

Subpart 1 heading in Part 4

In schedule 3, Part 4, in the subpart 1 heading, replace “reorganisation schemes” with “reorganisation implementation schemes”. 15

Clause 41

In Schedule 3, in the heading to clause 41, replace “**reorganisation scheme**” with “**reorganisation implementation scheme**”.

In Schedule 3, clause 41, replace “reorganisation scheme” with “reorganisation implementation scheme” in each place. 20

In Schedule 3, clause 41(1) and (2)(a) and (b), replace “final proposal” with “reorganisation plan”.

Subpart 2 heading in Part 4

In Schedule 3, Part 4, in the subpart 2 heading, replace “reorganisation schemes” with “reorganisation implementation schemes”. 25

Clause 42

In Schedule 3, in the heading to clause 42, replace “**reorganisation schemes**” with “**reorganisation implementation scheme**”.

In Schedule 3, in clause 42(1) and (2), replace “reorganisation scheme” with “reorganisation implementation scheme”. 30

In Schedule 3, clause 42(1)(f) and 42(2), replace “proposal” with “reorganisation plan”.

Clause 42A

In Schedule 3, replace clause 42A with:

Clause 42A—continued**42A Content of reorganisation implementation scheme in respect of local boards**

Without limiting clause 42, a reorganisation implementation scheme in respect of a reorganisation plan to which clause 15(2) applies—

- (a) must make, in accordance with section 48L, an initial allocation between the unitary authority’s governing body and the local board of decision-making responsibility for the non-regulatory activities of the unitary authority within each local board area; and 5
- (b) may specify delegations to any local board in accordance with clause 36C of Schedule 7. 10

Clause 43

In Schedule 3, clause 43(1) and (2), replace “reorganisation scheme” with “reorganisation implementation scheme”.

Clause 44

In Schedule 3, clause 44(1)(a), replace “reorganisation scheme” with “reorganisation implementation scheme”. 15

In Schedule 3, clause 44(1)(a), replace “section 25(4)” with “**section 25A(1)**”.

In Schedule 3, clause 44(1)(b), replace “final proposal” with “reorganisation plan”.

In Schedule 3, clause 44(2), replace “section 25(4)” with “**section 25A(1)**”.

Clause 45

In Schedule 3, in the heading to clause 45, replace “reorganisation scheme” with “reorganisation implementation scheme”. 20

In Schedule 3, clause 45(1), replace “reorganisation scheme” with “reorganisation implementation scheme” in each place.

Clause 46

In Schedule 3, clause 46(1), replace “reorganisation scheme” with “reorganisation implementation scheme” in each place. 25

Clause 49

In Schedule 3, clause 49(1)(a) and (b), replace “reorganisation scheme” with “reorganisation implementation scheme”. 30

Clause 53

In Schedule 3, repeal clause 53(6).

New subpart 4 of Part 4 inserted

In Schedule 3, after clause 54, insert:

New subpart 4 of Part 4 inserted—continued**Subpart 4—Tax treatment of assets transferred in reorganisation****55 Application**

- (1) This subpart applies for the purposes of the Inland Revenue Acts when, in a reorganisation described in **section 24** of this Act,—
- (a) the assets and liabilities of a terminating entity (the **transferring entity**) become the assets and liabilities of a receiving entity (the **receiving entity**): 5
 - (b) some or all of the assets and liabilities of a continuing entity (the **transferring entity**) become the assets and liabilities of another entity (the **receiving entity**): 10
 - (c) the voting interests and market value interests of a notional single person in a local authority (the **transferring entity**) become the voting interests and market value interests of a notional single person in another entity (the **receiving entity**). 5
- (2) In this clause and in **clauses 56 to 60**,— 15
- date of transfer** means the date on which assets and liabilities, or voting interests and market value interests, of a transferring entity become assets and liabilities, or voting interests and market value interests, of a receiving entity
- Inland Revenue Acts** has the meaning given by section 3(1) of the Tax Administration Act 1994 20
- transfer** means a method of conveying assets and liabilities, or voting interests and market value interests, to a receiving entity so that the assets and liabilities, or voting interests and market value interests, that the transferring entity has before the date on which the conveyance takes place become the assets and liabilities, or voting interests and market value interests, of the receiving entity on and after that date. 25
- (3) In **this clause and clauses 56 to 60**, terms defined in the Inland Revenue Acts have the meanings given by those Acts.

56 General treatment

- (1) A receiving entity is treated from the date of transfer as if they were the same person as the transferring entity. 30
- (2) A thing done by a transferring entity before the date of transfer is treated as if it had been done by the receiving entity on the date on which it was done by the transferring entity.
- (3) A receiving entity is treated as having held the voting interests and market value interests without interruption from the date on which the transferring entity acquired them. 35

New subpart 4 of Part 4 inserted—continued**57 Income and expenditure**

An amount of income derived or expenditure incurred by a transferring entity before the date of transfer does not become income or expenditure of the receiving entity merely because the assets and liabilities of the transferring entity have become the assets and liabilities of the receiving entity.

5

58 Valuation of assets

(1) For an asset that is a financial arrangement, trading stock, or revenue account property, the value is established as follows:

(a) if income derived from the asset is exempt income of a transferring entity and is not exempt income of a receiving entity, the receiving entity is treated as having acquired the asset on the date of transfer at its market value on that date:

10

(b) if income derived from the asset is not exempt income of a transferring entity and is exempt income of a receiving entity, the transferring entity is treated as having disposed of the asset on the date of transfer at its market value on that date.

15

(2) For an asset that is an item of depreciable property, the value is established as follows:

(a) if income derived from the asset is exempt income of a transferring entity and is not exempt income of a receiving entity, the receiving entity is treated as having acquired the property on the date of transfer at its accounting carrying value on that date:

20

(b) if income derived from the asset is not exempt income of a transferring entity and is exempt income of a receiving entity, the transferring entity is treated as having disposed of the property on the date of transfer at its adjusted tax value on that date.

25

59 Continuity

(1) The continuity provisions of the Income Tax Act 2007 (which relate to tax losses and memorandum accounts) apply as if the transferring entity did not exist before the transfer and was instead the receiving entity for the purposes of determining, among other things, whether—

30

(a) a tax loss or loss balance—

(i) may be used or is carried forward to the next tax year:

(ii) may be subtracted from the entity's net income:

(b) an amount that is a credit in a memorandum account may be carried forward from a credit date to a later time:

35

(c) a debit for loss of shareholder continuity arises in a memorandum account.

New subpart 4 of Part 4 inserted—continued

- (2) When the assets and liabilities of a trustee become the assets and liabilities of an entity, a tax loss of the trustee as transferring entity becomes the tax loss of the entity as receiving entity.

60 Goods and services tax

- (1) When the assets and liabilities of a transferring entity become the assets and liabilities of a receiving entity, the transfer is treated as a taxable supply of the assets and liabilities that is charged with tax at the rate of 0%. 5
- (2) Subject to **subclause (1)**, for the purposes of calculating the amount of tax payable, or input tax deductible, on the transfer of assets and liabilities described in **subclause (1)**, the transferring entity and receiving entity are treated on and after the date of transfer as if they were the same person. 10

Schedule 3 Amendments to Schedule 4

s 36

Clause 3

In Schedule 4, replace clause 3(2) with:

- 5
- (2) A member may, at any time, be removed from office, by written notice from the Minister, for any reason that, in the Minister's opinion, justifies the removal.
- (2A) The notice referred to in **subclause (2)** must—
- 10
- (a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and
- (b) state the reasons for the removal.
- (2B) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice under **subclause (2)**.

Clause 29

15

In Schedule 4, replace clause 29 with:

29 Chief executive officer

- (1) The Commission may appoint a suitably qualified person to act as the chief executive officer to enable the Commission to perform or exercise its functions, responsibilities, duties, and powers.
- 20
- (2) The chief executive officer is appointed on the terms and conditions agreed between the Commission and the chief executive officer.
- (3) The chief executive officer is responsible to the Commission for employing staff, and negotiating their terms of employment, on behalf of the Commission.
- (4) Sections 118 and 119 of the Crown Entities Act 2004 apply to the Commission as if it were a Crown entity.
- 25

Clause 31

In Schedule 4, repeal clause 31.

Schedule 4
Schedule 8 replaced and new Schedules 8A and 8B inserted

s 37

Schedule 8
Statements of intent for council-controlled organisations

5

s 64

Part 1
Adoption of statement of intent

1 Draft statement of intent

The board of a council-controlled organisation must deliver to its shareholders a draft statement of intent on or before 1 March in the year preceding the financial year to which the draft statement of intent relates. 10

2 Consideration of shareholder comments

The board must—

- (a) consider any comments on the draft statement of intent that are made by the shareholders, or by any of them, on or before 1 May in the year preceding the year to which the draft statement relates; and 15
- (b) in the case of a substantive council-controlled organisation, give effect to those comments, unless—
 - (i) to do so would be unlawful; or 20
 - (ii) to do so would be contrary to the organisation's constitution; or
 - (iii) the comments propose conflicting priorities for the organisation.

3 Final statement of intent

The board must deliver the completed statement of intent to the shareholders before the commencement of the financial year to which it relates. 25

4 Modifications of statements of intent

The board may, by written notice, modify a statement of intent at any time if the board has first—

- (a) given written notice to the shareholders of the proposed modification; and 30
- (b) considered any comments made on the proposed modification by the shareholders or by any of them within—
 - (i) 1 month after the date on which the notice under **paragraph (a)** was given; or

- (ii) any shorter period that the shareholders may agree; and
- (c) in the case of a substantive council-controlled organisation, given effect to those comments unless—
 - (i) to do so would be unlawful; or
 - (ii) to do so would be contrary to the constitution; or
 - (iii) the comments propose conflicting priorities for the organisation.

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5 Modifications of statements of intent by resolution of shareholders

- (1) The shareholders of a council-controlled organisation may, by resolution, require the board to modify the statement of intent in the manner specified in the resolution.
- (2) Every modification that is required by a resolution under **subclause (1)** must be—
 - (a) consistent with the objectives of the constitution; and
 - (b) lawful.
- (3) Before making a resolution under **subclause (1)**, the shareholders must consult the board as to the proposed content of the resolution.
- (4) As soon as practicable after receiving a resolution that complies with **subclause (2)**, the board must—
 - (a) prepare and adopt a revised statement of intent that incorporates the modifications in the resolution; and
 - (b) deliver the revised statement of intent to each shareholder within 1 month of the date of its adoption; and
 - (c) make the revised statement of intent publicly available within 1 month of the date of its adoption.
- (5) **Subclause (1)** applies despite any other provision of this Act or of the constitution of the council-controlled organisation.

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Part 2

Content of statements of intent: all council-controlled organisations

6 Content of statement of intent

- (1) The statement of intent for a council-controlled organisation must include the information described in **subclause (2)**—
 - (a) for the group comprising the council-controlled organisation and its subsidiaries (if any); and
 - (b) in respect of the financial year to which it relates and each of the immediately following 2 financial years.
- (2) The information required by **subclause (1)** is—

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	(a) the objectives of the group; and	
	(b) a statement of the board's approach to the governance of the group; and	
	(c) the nature and scope of the activities to be undertaken by the group; and	
	(d) the non-financial performance targets and other measures by which the performance of the group may be judged in relation to its objectives; and	5
	(e) any additional information that is required to be included in the statement of intent.	
7	Additional content of statement of intent	
(1)	This clause applies to a council-controlled organisation that provides services, other than under a contract or similar arrangement, in relation to the following groups of activities:	10
	(a) water supply:	
	(b) sewerage and the treatment and disposal of sewage:	
	(c) stormwater drainage:	
	(d) flood protection and control works:	15
	(e) the provision of roads and footpaths:	
	(f) any other group of activities for which the Secretary has made rules in accordance with a direction under section 261B(2A)(a) .	
(2)	The council-controlled organisation's statement of intent must state the matters in subclause (3) in relation to each group of activities described in subclause (1)(a) .	20
(3)	The matters required by subclause (2) are—	
	(a) any performance measures specified in a rule made under section 261B in relation to a group of activities described in subclause (2) ; and	
	(b) the performance target or targets of the council-controlled organisation for each performance measure.	25
Part 3		
Additional content of statements of intent of council-controlled trading organisations		
8	Additional content of statement of intent of council-controlled trading organisations	30
	The statement of intent for a council-controlled trading organisation must include, as well as the information required by Part 2 of this Schedule, the following information:	
	(a) the major accounting policies of the organisation or group; and	35

- (b) the ratio of consolidated shareholders' funds to total assets, and the definitions of those terms; and
- (c) an estimate of the amount or proportion of accumulated profits and capital reserves that is intended to be distributed to the shareholders; and
- (d) the board's estimate of the commercial value of the shareholders' investment in the group and the manner in which, and the times at which, that value is to be reassessed.

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Part 4

Additional content of statements of intent of council-controlled organisations that are not trading organisations

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9 Additional content of statement of intent of council-controlled organisations that are not trading organisations

The statement of intent for a council-controlled organisation that is not a council-controlled trading organisation must include, as well as the information required by **Part 2** of this Schedule, the following information:

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- (a) the major accounting policies of the organisation or group; and
- (b) what prospective financial information is to be provided to the shareholders by the organisation or group during the course of the financial years covered by the statement, including the information to be included in each half-yearly report.

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Schedule 8A

Statutory responsibilities, duties, and powers that may be conferred on water services council-controlled organisations

ss 24(1)(k), 56I(1)

The responsibilities, duties, and powers that the Commission may include in a re-organisation plan that includes the establishment of a new water services council-controlled organisation (*see clause 20(5) of Schedule 3*) are—

- (a) the powers of a local authority council under the following sections of the Local Government Act 1974 in relation to wastewater services (and those sections apply accordingly, with any necessary modifications):
 - (i) section 446 (council may cover in watercourse so as to make it a public drain):
 - (ii) section 451 (diversion, etc, of drainage works):
 - (iii) section 459 (council may require owners of land in certain cases to provide private drains):
 - (iv) section 460 (construction of private drains through adjoining premises):
 - (v) section 461 (further provisions with respect to private drains):
 - (vi) section 462 (council may declare private drain to be public drain):
 - (vii) section 467 (unlawful connection of private drain):
 - (viii) section 468 (tree roots obstructing public drains); and
- (b) the powers of a local authority under the following sections of this Act in relation to its services (and those sections apply accordingly, with any necessary modifications):
 - (i) section 171 (general power of entry):
 - (ii) section 173 (power of entry in cases of emergency):
 - (iii) section 175 (power to recover for damage by wilful or negligent behaviour):
 - (iv) section 181 (construction of works on private land):
 - (v) section 182 (power of entry to check utility services):
 - (vi) section 186 (local authority may execute works if owner or occupier defaults); and
- (c) the responsibilities, duties, and powers of a local authority under the following sections of this Act in relation to its services (and those sections apply accordingly, with any necessary modifications):
 - (i) section 191 (local authority not authorised to create nuisance):
 - (ii) section 195 (discharge of sewage):
 - (iii) section 196 (discharge of trade wastes); and

- (d) the responsibilities, duties, and powers of a local authority under the Public Works Act 1981; and
- (e) the responsibilities, duties, and powers of a utility operator under the Utilities Access Act 2010 and any code or regulations under that Act.

Schedule 8B

Statutory responsibilities, duties, and powers that may be conferred on transport services council-controlled organisations

ss 24(1)(l), 560(1)

The responsibilities, duties, and powers that the Commission may include in a re-organisation plan that includes the establishment of a new transport services council-controlled organisation (*see clause 20(6) of Schedule 3*) are set out in Part 1 and Part 2 below.

Part 1

- | | | |
|---|---|----|
| 1 | The responsibilities, duties, and powers of a local authority and an enforcement authority under the Land Transport Act 1998 for the purposes of prosecuting stationary vehicle offences | 10 |
| 2 | The responsibilities, duties, and powers of a territorial authority under Part 21 of the Local Government Act 1974, except the responsibilities, duties, and powers under sections 316(2), 319(1)(j), 319A, 319B, and 347 to 352 of that Act | 15 |
| 3 | The responsibilities, duties, and powers of a local authority, a territorial authority, and a controlling authority under Part 4 of the Government Roading Powers Act 1989 | |
| 4 | The responsibilities, duties, and powers of an enforcement authority under the Land Transport Act 1998 in relation to prosecuting infringement offences under that Act that relate to the use of special vehicle lanes (including the appointment of enforcement officers in accordance with sections 5(1) and 177 of this Act) | 20 |
| 5 | The responsibilities, duties, and powers of a road controlling authority and a local authority under the Land Transport Act 1998 and any regulations or rules made under that Act | 25 |
| 6 | The responsibilities, duties, and powers of a local authority to make and enforce bylaws under subparts 1 and 2 of Part 8 of this Act (except the power conferred by section 147) | 30 |
| 7 | The responsibilities, duties, and powers of a public road controlling authority under Part 2 of the Land Transport Management Act 2003 in relation to road tolling schemes | |

Part 2

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|---|---|----|
| 8 | The responsibilities, duties, and powers of a regional transport committee under Part 2 of the Land Transport Management Act 2003 | 35 |
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|----|--|---|
| 9 | The responsibilities, duties, and powers of a regional council under Part 5 of the Land Transport Management Act 2003 in relation to public transport planning and regulation | |
| 10 | The responsibilities, duties, and powers of a territorial authority under section 591 of the Local Government Act 1974 (except the power conferred by section 591(1)(a) of that Act) | 5 |
| 11 | The responsibilities, duties, and powers of an enforcement authority under the Land Transport Act 1998 in relation to prosecuting infringement offences under that Act that relate to a failure to pay a public transport service fare | |

Schedule 5

Consequential amendments to other enactments

s 44

Freedom Camping Act 2011 (2011 No 61)

In section 6(1)(a)(ii), after “managed by”, insert “or on behalf of”. 5

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), definition of **regional council**, replace paragraph (b)(iii) with:

- (iii) Part 5, includes—
 - (A) Auckland Transport:
 - (B) a unitary authority except the Auckland Council: 10
 - (C) any territorial authority to which the regional council has transferred the functions, powers, and duties of a regional council under that Part:
 - (D) a council-controlled organisation on which an Order in Council under **section 25** of the Local Government Act 2002 has conferred the functions, powers, and duties of a regional council under that Part 15

In section 5(1), definition of **regional transport committee**, paragraph (b)(ii), after “member”, insert “; or”.

In section 5(1), definition of **regional transport committee**, after paragraph (b), insert: 20

- (c) the governing body of a council-controlled organisation on which an Order in Council under **section 25** of the Local Government Act 2002 has conferred the functions, powers, and duties of a regional transport committee under Part 2 25

Local Government Act 1974 (1974 No 66)

Repeal section 318.

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)

In section 17(1) and (2), replace “section 25” with “**section 25A**”.

In section 17(2), replace “reorganisation scheme” with “reorganisation implementation scheme”. 30

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Local Government Commission

Public Audit Act 2001 (2001 No 10)

In Schedule 2, insert in its appropriate alphabetical order:

Local Government Commission