

**Southland District Council
(Stewart Island/Rakiura Visitor Levy)
Empowering Act 2010**

Local Bill 2010

Explanatory Note

General Policy Statement

This Act proposes a levy on visitors to Stewart Island/Rakiura for the purpose of meeting the infrastructure costs attributable to visitors to the Island. Stewart Island/Rakiura receives a high number of short term visitors that place pressure on local infrastructure which are paid for by a very small rate base. The underlying problem is that local infrastructure and amenities are a common resource (public good) with few or no incentives on users or beneficiaries to provide or fund them.

This Act will provide the Southland District Council on behalf of the Stewart Island/Rakiura community with the legal mechanisms to receive and expend revenue obtained from a levy.

The Act establishes the governance and administrative arrangements for the levy, including the process for setting and reviewing the levy.

To administer the levy established by this Act, it is proposed that the Southland District Council establish a subcommittee consisting of representatives from the tourism industry; Community Board; and District Council.

Clause by Clause Analysis

- Clause 1* Is the title clause.
- Clause 2* Provides that the Act comes into force on the day after the date on which it receives Royal Assent.
- Clause 3* Is the interpretation clause.
- Clause 4* Provides to power to Southland District Council to set and collect levies.
- Clause 5* Provides that the purpose of this Act is to provide the Southland District Council with the power to make bylaws enabling the setting and collection of levies in respect to any person travelling to, or from, Stewart Island/Rakiura
- Clause 6* Requires the Council to prepare annual estimates on the levy and to provide this to the Ministers for Conservation and Local Government. In addition, the report is to be made available to the public.
- Clause 7* Requires the Council to prepare and publicly publish an annual report on the levy and to provide this to the Minister for Local Government and the Controller and Auditor-General.
- Clause 8* Establishes that levies are payable at the rate(s) prescribed by bylaws made under this Act.

- Clause 9* Requires the Council to publish the bylaws and rates of levy.
- Clause 10* Requires the Council to ensure the public is aware of the levy payable by displaying signs at or near the place the levy is collected.
- Clause 11* Allows the Council to establish facilities necessary for collection of the levy.
- Clause 12* Establishes liability for every person who travels to Stewart Island/Rakiura to pay the levy: and for every authorised officers and collection agents to pass on the levy to the Council.
- Clause 13* Provides the method for payment of the levy.
- Clause 14* Provides powers to recover any unpaid levy as a debt payable to the Council.
- Clause 15* Allows the Council to pass bylaws consistent with the Act to enable the operation of the levy.
- Clause 16* Requires the Council to use the special consultative procedure as set out in the Local Government Act 2002 for any bylaws passed under this Act, whilst retaining provisions to make minor amendments to bylaws for minor changes or correcting errors through a resolution publicly notified. These minor changes or corrections to errors must not affect an existing right, interest, title, immunity or duty of any person or the existing status or capacity of any person to whom the bylaw applies.
- Clause 17* Allows the Council to enter into a contract with tourism and transport operators for the purpose of providing the collection and payment of levies payable by visitors to Stewart Island/Rakiura.
- Clause 18* Establishes offences for: evasion, or falsely claiming exemption from the levy, and resisting or obstructing any authorised officer carrying out their duties in relation to the levy. Clause 18(2) provides offences for any agent of the Council who does not collect and pass on the levy payable or provides false information.

Hon A Member

Southland District Council (Stewart Island Visitor Levy) Empowering Bill

Local Bill

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The Parliament of New Zealand enacts as follows:

1. Title

This Act is the Southland District Council (Stewart Island/Rakiura Visitor Levy) Empowering Act **2010**.

2. Commencement

This Act comes into force on the day after the date on which it receives royal assent.

Part 1
Provision to establish levy regime

3. Interpretation

In this Act, unless the context otherwise requires, -

agent means a person or class of persons appointed by the the Council under **section 11** to collect levies

authorised officer means a person authorised by the Council to collect levies

bylaw means a bylaw made by the Council under this Act

collection station means a place constructed with barriers and other works where levies are collceted from visitors

Council means the Southland District Council

enforcement officer means a person appointed by the Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, this Act, including enforcement of the bylaws of the Council.

financial year means a period of 12 months ending on 30 June

levy means the sum of money set under this Act—

(a) To be collected from every person who is a visitor to Stewart Island/Rakiura

Minister means a Minister of the Crown who, under the authority of any warrant or with authority of the Prime Minister, is for the time being responsible for this Act

operator means the owner or other person in control of a transport vessel that provides a service of carrying passengers to or from Stewart Island/Rakiura

person includes, as the case requires, a local authority, and any association of persons whether incorporated or not

special consultative procedure means, in relation to a proposal, the procedure described in Section 83 of the Local Government Act 2002

Stewart Island/Rakiura is the area known by the offical geographic name and defined by the New Zealand Geographic Board

transport vessel means a ship, aircraft, or other vessel carrying passengers to or from Stewart Island/Rakiura, whether or not—

- (a) there is a charge for any or all of those passengers OR any charge is part of a tourist package OR the vessel is operated commercially;
- (b) the vessel is used for freight as well as passengers

visitor means any person (other than a person or class of persons who is exempted under bylaws made under this Act) who travels to or from Stewart Island/Rakiura, whether for a single working day or for any longer period by any transport vessel

Setting and collecting levies

4. Power to set and collect levies

- (1) The Council may set and collect levies in respect of any person travelling to, or from, Stewart Island/Rakiura.
- (2) Levies may be set and collected in respect of 1 or both directions of travel.

Purposes for which levies set and collected

5. Purpose

The purpose of this Act is to provide the Council with the power to make bylaws enabling the setting and collection of levies in respect to any person travelling to, or from, Stewart Island/Rakiura.

Administrative requirements

6. Annual estimates of levies

- (1) The Council must prepare and adopt for the financial year beginning on 1 July 2011 and for each subsequent financial year, a report setting out a set of estimates of the total amount that the Council expects to receive in levies for the financial year to which the report relates.
- (2) The report required by **subsection (1)** must be—
 - (a) prepared and adopted at a meeting of the Council, before the end of the third month of the financial year to which it relates, at the same time as it prepares and adopts its annual plan; but
 - (b) separate from that annual plan.
- (3) The Council must, not later than 5 working days after giving public notice of a proposal to adopt a report under **subsection (1)** of this section, send a copy of the proposal to the Minister of Local Government.
- (4) If the Council adopts a report under this section it must,—
 - (a) as soon as practicable after its adoption, publish the report in the major daily newspaper circulating in the Southland District; and
 - (b) make the report available for public inspection at its offices and libraries; and
 - (c) must make copies of the report available to the public:
 - (i) free of charge; or
 - (ii) at a reasonable charge; and

- (d) must, within 20 working days after its adoption, send copies of that report to:
 - (i) the Minister and Minister for Conservation; and
 - (ii) the Auditor-General; and
 - (iii) the Parliamentary Library.
- (5) Nothing in this section—
 - (a) limits the Council’s obligations in respect of its Annual Plan; or
 - (b) prevents the Council including the estimates referred to in **subsection (1)** in both—
 - (i) the Council’s annual plan; and
 - (ii) in the separate report required by **subsection (2)**

7. Annual report on levies

- (1) The Council must prepare and adopt in respect of the financial year beginning on 1 July 2011 and in respect of each subsequent year a report containing, for the financial year to which the report relates, audited financial statements that set out—
 - (a) the rate of the levies payable during that financial year:
 - (b) how the total amount collected by way of levies under this Act in that financial year has been used, specifying, in relation to that financial year,—
 - (i) the total amount of the costs, charges, and expenses that relate to setting and collecting the levies;
 - (ii) particulars of how the balance of that total amount has been used including, in the case of any part of that balance paid into an account and the amount paid into it in that financial year; and
 - (iii) particulars of how any levies collected in earlier financial years, or money derived from those levies, have been used in the financial year to which the report relates for the matters provided by **subparagraphs (i) and (ii)**.
- (2) The report required by **subsection (1)** must be—
 - (a) prepared and adopted by the Council, not later than 5 months after the end of the financial year to which it relates, at the same time as it prepares and adopts its annual report under section 98 of the Local Government Act 2002; but
 - (b) separate from that annual report.
- (3) If the Council adopts a report under this section, it must,—
 - (a) as soon as practicable after its adoption, publish the report in the major daily newspaper circulating in the Southland District; and
 - (b) make the report available for public inspection at its offices and libraries; and
 - (c) must make copies of the report available to the public:
 - (iii) free of charge; or
 - (iv) at a reasonable charge; and

- (d) must, within 20 working days after its adoption, send copies of that report to:
 - (iv) the Minister and Minister for Conservation; and
 - (v) the Auditor-General; and
 - (vi) the Parliamentary Library.
- (4) Nothing in this section—
 - (a) limits the Council’s obligations in respect of its Annual Plan; or
 - (b) prevents the Council including the estimates referred to in **subsection (1)** in both—
 - (iii) the Council’s annual plan; and
 - (iv) in the separate report required by **subsection (2)**

Further provisions for setting and collecting levies

8. Rates of levy

- (1) Levies are payable at the rate or rates as are prescribed by bylaws made under this Act.
- (2) Different provision may be made in the bylaws—
 - (a) for different types of fees or particular fees; or
 - (b) for different times of the day [or year] or for different days of the year.

9. Rates of levy to be notified

- (1) The Council must notify every bylaw prescribing or amending the rate of any levy—
 - (a) In the major daily newspaper circulating in the Southland District; and
 - (b) Not later than 28 days before the levy or amended levy as the case may be, is payable.

10. Rate of levy to be displayed

The rates of levies that are in force must be clearly displayed at or near the place where levies are payable.

11. Collection of levies

For the purpose of collecting levies, the Council may—

- (a) Construct collection stations on Stewart Island/Rakiura that the Council considers necessary;
- (b) By written notice to a person who operates a tourist business or transport vessel to or from Stewart Island/Rakiura, appoint that person to be an agent of the Council.

Payment of levies

12. Liability for payment of levies

- (1) Every person who travels to Stewart Island/Rakiura must pay a levy in accordance with **subsection 13**.

- (2) Every authorised officer or agent who collects levies—
 - (a) Holds the levies collected in trust to pass on to the Council; and
 - (b) For that purpose, must pay the levies into a separate bank account for payment to the Council.

13. Method of paying levies

Levies must be paid—

- (a) by payment of the amount of the levy to an authorised officer or agent at the collection station; or
- (2) by account, under a contract with the Council under this Act.

14. Power to recover if levies not paid

If a levy remains unpaid after it has become due for payment, the Council may recover as a debt from the person liable to pay the levy the amount of the levy, together with all expenses involved in the recovery of the levy.

Part 2 Miscellaneous

Power to make bylaws

15. Bylaws

The Council may, as it thinks fit, make bylaws that are not inconsistent with this Act or with any other Act as it thinks fit for all or any of the following purposes:

- (a) setting and collecting levies and prescribing the rates of those levies:
- (b) exempting any persons or classes of persons from the payment of levies:
- (c) providing for vouchers to be issued for the amount of the levies payable, on payment of a charge:
- (d) establishing the class or classes of activities for the expenditure of levies collected:
- (e) provide for such other matters as may be necessary to enable the objects of this Act to be carried out effectually:

16. Special consultative procedure and bylaws

- (1) The Council must use the special consultative procedure set out in section 83 of the Local Government Act 2002 in—
 - (a) making a bylaw under this Act:
 - (b) amending a bylaw made under this Act:
 - (c) revoking a bylaw under this Act.
- (2) Despite subsection (1)(b), the Council may, by resolution publicly notified,—
 - (a) make minor changes to, or correct errors in, a bylaw, but only if the changes or corrections do not affect—
 - (i) an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies; or
 - (ii) an existing status or capacity of any person to whom the bylaw applies.

Power to contract

17. Power of Council to enter into contracts for payment of fees

The Council may enter into a contract with the operator of any tourist or transport vessel business for the purpose of providing for the collection and payment of levies from or in respect of visitors.

18. Offences

- (1) A person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who—
 - (a) evades the payment of any fee payable by that person; or
 - (b) resists or obstructs any authorised officer in the execution of their duty; or
 - (c) falsely claims exemption from a levy.

- (2) An agent commits an offence and is liable on summary conviction to a fine not exceeding \$500 who—
 - (a) fails to collect a levy payable under this Act; or
 - (b) fails to pay any levy collected to the Council in accordance with this Act; or
 - (c) gives false information to the Council on the levies collected.