



## Southland District Council (Stewart Island/Rakiura Visitor Levy) Empowering Act 2012

Local Act      2012 No 1  
Date of assent    26 March 2012  
Commencement    see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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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 2012.

**2 Commencement**

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

## **Part 1**

### **Provision to establish levy regime**

**3 Purpose**

The purpose of this Act is to provide a mechanism for the Council to set and collect levies and obtain revenue from passengers travelling to Stewart Island/Rakiura, in order to better provide services, facilities, and amenities for those persons while they are on the Island.

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**activity** has the meaning given in section 5(1) of the Local Government Act 2002

**approved operator** means a person who owns or operates or is otherwise in control of a transport vessel and who enters into a contract with the Council—

- (a) relating to the provision of a service to carry to or from the Island passengers who, but for the contract, would be visitors to the Island; and
- (b) providing for revenue to be collected from the passengers; and
- (c) that has the effect of bringing passengers carried by the operator within the definition of an excluded visitor; and
- (d) including any other terms and conditions that may be agreed from time to time by the approved operator and the Council

**Council** means the Southland District Council

**excluded visitor** means a person who is not to be treated as a visitor because the person—

- (a) travels to the Island under a contract of carriage with an approved operator; or
- (b) is the owner or is otherwise in control of a transport vessel or is employed, or under contract, to work on a transport vessel; or
- (c) is one whose visit is entirely within the boundaries of the Rakiura National Park; or
- (d) is visiting the Island for a continuous period of 21 days or more; or
- (e) is a person under the age of 18 years on the date of arrival on the Island

**GST** means goods and services tax chargeable under the Goods and Services Act 1985

**Island** means Stewart Island/Rakiura

**levy** means the sum of money (inclusive of GST) collected under bylaws made under this Act from persons who are visitors to the Island

**revenue** means revenue (inclusive of GST) collected from excluded visitors, in place of any levy imposed by bylaws made under this Act, by an approved operator in accordance with a contract entered into for the purpose with the Council

**transport vessel**—

- (a) means a ship, aircraft, or other vessel carrying passengers to or from the Island, whether or not—
  - (i) there is a charge for any or all of those passengers; or
  - (ii) any charge is part of a tourist package; or
  - (iii) the vessel is operated commercially; or
  - (iv) the vessel is used for freight as well as passengers; and
- (b) includes—
  - (i) a regular ferry or air service to the Island; and
  - (ii) a cruise ship whose passengers disembark to land on the Island

**visitor** means any person who—

- (a) travels to or from the Island, whether for a single day or for any continuous period of less than 21 days, by any transport vessel; but
- (b) is not a person who,—
  - (i) for the purposes of the Local Government (Rating) Act 2002, is a ratepayer in respect of a rating unit on the Island; or
  - (ii) is a resident of the Island by virtue of being a resident for electoral residency purposes under section 23 of the Local Electoral Act 2001; or

- (iii) is a tenant of a rating unit for the purposes of the Residential Tenancies Act 1986; or
- (iv) is the spouse, civil union partner, de facto partner, or dependant of a ratepayer or tenant; or
- (v) is a beneficiary of the Rakiura Māori Land Trust or who has an ownership interest in a Māori land block on the Island; or
- (vi) is an excluded visitor.

### *Setting and collecting levies*

## **5 Power to set and collect levies**

- (1) The Council may make bylaws in accordance with the Local Government Act 2002 to prescribe—
  - (a) the rates of levies that may be imposed on or in respect of visitors; and
  - (b) the means by which those levies are to be collected.
- (2) Levies may be set and collected in respect of 1 or both directions of travel to or from the Island.
- (3) The Council must erect and maintain signs at major points of entry on the Island to advise visitors of their obligations under any bylaw, the rate of the levy and how it is to be paid, and of the offence for breach of a bylaw.

## **6 Status of levies and revenue collected under this Act**

Levies collected under this Act and revenue collected by an approved operator—

- (a) are a source of funding for the purposes of section 103(2) of the Local Government Act 2002; and
- (b) must be used for 1 or more of the following purposes:
  - (i) funding, wholly or in part, activities used by visitors or any class of excluded visitor:
  - (ii) funding, wholly or in part, activities on the Island for the benefit of visitors or any class of excluded visitor:
  - (iii) mitigating the adverse effects of visitors or excluded visitors on the environment of the Island.

## **Part 2**

### **Infringement offences**

## **7 Offences**

- (1) A person commits an infringement offence who—
  - (a) evades the payment of a levy payable by that person; or

- (b) falsely claims that he or she is not a visitor.
- (2) A person who is alleged to have committed an infringement offence may either—
  - (a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or
  - (b) be served with an infringement notice under section 11.
- (3) If an infringement notice has been issued under section 11, proceedings for the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957, and in that case the provisions of that section apply with all necessary modifications.
- (4) In this section and sections 8 to 14,—  
**infringement fee**, in relation to an infringement offence, means the amount prescribed by regulations made under section 14 as the infringement fee for the offence

**infringement offence** means an offence that is declared, by regulations made under section 14, to be an infringement offence for the purposes of this Act.

Section 7(2)(a): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

## **8 Appointment of enforcement officers by Council**

- (1) The Council may appoint persons to be enforcement officers for the purposes of this Act.
- (2) The Council must issue warrants in writing to enforcement officers appointed under this section, specifying—
  - (a) the responsibilities and powers given to them; and
  - (b) the infringement offences in relation to which they are appointed.

## **9 Enforcement officers must produce evidence of appointment**

- (1) An enforcement officer must produce evidence of his or her appointment under this Act whenever reasonably required to do so by any person.
- (2) It is sufficient evidence that a person is appointed under this Act if the person produces a document that specifies, by reference to sections of this Act,—
  - (a) the responsibilities and powers that the person has under the Act; and
  - (b) the infringement and other offences in relation to which the person is appointed.

## **10 Enforcement officers may require certain information**

- (1) An enforcement officer who believes on reasonable grounds that a person has committed, or is committing, an offence may direct the person to give—
  - (a) his or her full name, date of birth, and residential address; and

- (b) the full name, residential address, and whereabouts of any other person connected in any way with the alleged offence.
- (2) Nothing in subsection (1)(b) overrides legal professional privilege or affects any privilege recognised by sections 54 to 64 of the Evidence Act 2006.

## **11 Issue of infringement notices**

- (1) An infringement notice may be served on a person if an enforcement officer—
  - (a) observes the person committing an infringement offence; or
  - (b) has reasonable cause to believe that an infringement offence is being or has been committed by that person.
- (2) An infringement notice may be served—
  - (a) by an enforcement officer (not necessarily the person who issued the notice) personally delivering it (or a copy of it) to the person alleged to have committed the infringement offence; or
  - (b) by post addressed to the person's last known place of residence or business.
- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person under subsection (2)(b) must be treated as having been served on that person when it was posted.

## **12 Form of infringement notices**

An infringement notice must be in the prescribed form and must contain the following particulars:

- (a) sufficient particulars to inform the person served with the notice of the time, place, and nature of the alleged offence; and
- (b) the amount of the infringement fee prescribed for the offence; and
- (c) the time within which the infringement fee must be paid; and
- (d) the address of the place at which the infringement fee must be paid; and
- (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
- (f) a statement of the person's right to request a hearing; and
- (g) a statement of what will happen if the person neither pays the infringement fee nor requests a hearing; and
- (h) any other particulars that may be prescribed.

## **13 Payment of infringement fees**

All infringement fees paid in respect of infringement offences must be paid to the Council.

## 14 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations—
  - (a) setting the infringement fee for each infringement offence, which must be not less than \$150 or more than \$500:
  - (b) prescribing the form of the notice given under section 11.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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### Legislation Act 2019 requirements for secondary legislation made under this section

|                     |  |                               |
|---------------------|--|-------------------------------|
| <b>Publication</b>  | PCO must publish it on the legislation website and notify it in the <i>Gazette</i> | LA19 s 69(1)(c)               |
| <b>Presentation</b> | The Minister must present it to the House of Representatives                       | LA19 s 114, Sch 1 cl 32(1)(a) |
| <b>Disallowance</b> | It may be disallowed by the House of Representatives                               | LA19 ss 115, 116              |

*This note is not part of the Act.*

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Section 14(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## Notes

### **1     *General***

This is a consolidation of the Southland District Council (Stewart Island/Rakiura Visitor Levy) Empowering Act 2012 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2     *Legal status***

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3     *Editorial and format changes***

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4     *Amendments incorporated in this consolidation***

Secondary Legislation Act 2021 (2021 No 7): section 3

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)