

MESSAGE FROM THE MINISTER
(To Elected Members and CEOs)

REPEAL AND REVOCATION OF SOME BY-LAW POWERS

On the 13 December 2001 a Proclamation was Gazetted under s. 46 of the *Local Government (Implementation) Act 1999* to repeal redundant by-law making and related powers from the *Local Government Act 1934*. In addition, a variation to the *Local Government (Implementation) Regulations 1999* was made to revoke some preserved by-law making powers which were also identified as being redundant. This decision followed the release of a discussion paper in October 2000 on preserved by-law powers and consideration of submissions made in response to that paper.

Both actions will come into effect on the 1 January 2002.

All of the powers being repealed or revoked are considered redundant because they are either no longer relevant and not being used, or the matters they were intended to address can now be dealt with under other legislation.

In the latter case, some Councils may have by-laws which are based on the powers being repealed and revoked. In regard to the survival of by-laws where the relevant head power is repealed and no equivalent head powers are created elsewhere, a number of factors need to be assessed to determine whether any part of the by-law (and, if so, what part) would survive. As a consequence, Councils are encouraged to seek legal advice on the impact of the repeals and revocations in order to adjust the public record of their by-laws accordingly. In particular, Councils should examine any existing by-laws relating to the regulation of traffic on roads, STED schemes, and the erection of tents and other structures on private land.

With respect to the regulation of traffic on roads, the *Road Traffic Act 1961* now provides the legislative framework for dealing with matters previously dealt with under by-laws. In addition, Councils wishing to regulate material entering STED schemes can now do so by way of regulations under the *Public and Environmental Health Act 1987*. For the regulation of tents and other structures on private land for habitation, the matters of concern can be dealt with under the *Housing Improvement Act 1940*, the *Public and Environmental Health Act 1987* and order making powers under the *Local Government Act 1999*.



HON MARK BRINDAL, MP
MINISTER FOR WATER RESOURCES
MINISTER FOR EMPLOYMENT AND TRAINING
MINISTER FOR LOCAL GOVERNMENT
MINISTER FOR YOUTH