

## New Zealand.



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1928, No. 51.

AN ACT to amend the Municipal Corporations Act, 1920.

Title.

[9th October, 1928.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Municipal Corporations Amendment Act, 1928, and shall be read together with and deemed part of the Municipal Corporations Act, 1920 (hereinafter referred to as the principal Act).

Short Title.

2. Section two of the principal Act is hereby amended by inserting, before the definition of the term "Occupier," the following definition:—  
" ' Minister ' means the Minister of Internal Affairs."

Section 2 of principal Act amended.

3. Section twenty-three of the principal Act is hereby repealed.

Repeal.

4. (1) Section forty of the principal Act is hereby amended by repealing paragraph (h), and substituting the following:—

Section 40 of principal Act amended.

" (h) Any person who is concerned or interested (otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is not the general manager) in any contract made by the Council, if the payment made or to be made by or on behalf of the Council in respect of any such contract exceeds ten pounds in the case of a single contract, or twenty-five pounds altogether in any financial year in the case of two or more contracts, except in special cases to be previously approved by the Audit Office on the application of the Council. In any such special case the Audit Office may authorize the payment and receipt of such amount as it thinks fit, not exceeding in the aggregate fifty pounds in any financial year in respect of any contract or of two or more contracts :

" Provided that an interest in any loan raised by the Council, whether on security or otherwise, or in any newspaper in which the Council inserts advertisements, or in any lease granted or agreed to be granted to or by the Council, shall not constitute a disqualification under this paragraph :

" Provided further that no person shall be disqualified from being elected to be the Mayor or a Councillor of any borough by virtue of his being interested or concerned in any contract made before his election, if before such election his obligation under such contract has been performed and the amount to be paid by or on behalf of the Council has been fixed; and any payment made thereafter by or on behalf of the Council pursuant to such contract shall not operate to disqualify such person from continuing to hold office or be taken into account for the purpose of computing the amount that may lawfully be paid to him as Mayor or Councillor in the same financial year in respect of any contract or contracts."

(2) Section six of the Municipal Corporations Amendment Act, 1921 22, is hereby consequentially repealed.

Consequential repeal.

Section 57 of principal Act consequentially amended.

Biennial election of Mayor and Council to be held in month of May.

Repeal.

Special provision as to case where same person elected to be both Mayor and a Councillor.

Council may contract with officers and servants as to tenure of office.

Reduction of valuation of farming-lands not suitable for subdivision for building purposes.

(3) Subsection one of section fifty-seven of the principal Act is hereby consequentially amended by omitting the words "neither a director nor," and substituting the word "not."

5. (1) The first general election of Councillors to be held after the passing of this Act shall be held on the first Wednesday in May, nineteen hundred and twenty-nine, and on the same day in every succeeding second year thereafter a fresh general election of Councillors shall be held.

(2) This section is in substitution for section forty-seven of the principal Act, and that section is hereby accordingly repealed.

(3) Section twenty-four of the principal Act is hereby consequentially amended as follows:—

(a) By omitting from subsection one the words "last Wednesday in April," and substituting the words "first Wednesday in May":

(b) By omitting from subsection two the words "in May."

6. (1) If at any elections of Mayor and of a Councillor or Councillors held on the same day any person is declared to be elected both to be the Mayor and a Councillor of any borough, and is not deprived of either such office pursuant to a recount under section thirty-three of the Local Elections and Polls Act, 1925, or on a petition under section fifty-eight of that Act, he shall be deemed to have vacated his office as a Councillor, and thereupon the Returning Officer shall, notwithstanding anything to the contrary in any Act, give an amended public declaration of the result of the poll by declaring to be elected instead of such person the unsuccessful candidate who received the highest number of votes at the poll.

(2) In every such case as aforesaid the period of fourteen days mentioned in section fifty-eight of the Local Elections and Polls Act, 1925, shall with respect to the person declared by such amended declaration to be elected commence to run as from the date of such amended declaration.

(3) In any case where there is no other candidate who may lawfully be declared to be elected by means of an amended declaration as aforesaid, an extraordinary vacancy in the office of Councillor shall be deemed to have occurred.

7. (1) Notwithstanding anything to the contrary in the principal Act or in any rule of law, a Council may enter into an agreement in writing with any person whom it proposes to appoint, or who has been appointed, an officer or servant of the Council to the effect that such person shall not, save as provided in such agreement, be removed from office during such period (not exceeding three years from the date of his appointment or the date of such agreement, as the case may be) as is specified in such agreement.

(2) Any such agreement may from time to time be renewed for any period not exceeding three years at any one time from the date of such renewal.

8. (1) Where in any borough land of an area of not less than three acres is occupied solely for farming purposes, and is in the opinion of the Council not fit for subdivision for building purposes or not likely to be required within any reasonable period for building purposes, and the Council passes a resolution to that effect, the Valuer-General shall

(if he agrees with the decision of the Council that the land is not fit for subdivision or not likely to be required within any reasonable period for building purposes as aforesaid) make reduction in the assessment of the capital value and of the unimproved value of such land, and of the several interests therein, to the extent by which in his opinion such value is reduced by reason of the purposes to which such land is applied.

(2) Such valuation when made shall, notwithstanding anything to the contrary in any Act, be the valuation on which all borough rates shall be based, but shall not be valid or effectual for any other purpose.

(3) If at any time the Council is of opinion that any such resolution should be rescinded, the Council may, with the previous approval in writing of the Valuer-General, rescind any such resolution, and the land affected by the rescinded resolution shall be forthwith revalued by the Valuer-General under the provisions of the Valuation of Land Act, 1925.

(4) The foregoing provisions of this section shall, with the necessary modifications, apply to town districts not forming part of any county.

(5) The Rangiora Borough Valuation of Farm Lands for Rating Purposes Act, 1924, the Maitai Borough Valuation of Farm Lands for Rating Purposes Act, 1925, and section ten of the Wellington City Empowering and Special Rates Consolidation Act, 1923, are hereby repealed.

9. (1) A Council may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall, as the Council may determine, be kept in the Post Office Savings-bank or in any other bank within the meaning of the Banking Act, 1908.

(2) The Imprest Account may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Council, or may with the express approval in writing of the Audit Office, but not otherwise, be in the sole name of and be operated on by the Treasurer or other approved officer of the Council. Where the Imprest Account is held jointly in the names of the Treasurer and of one other person as aforesaid, such last-mentioned person shall be either a responsible officer of the Council or a member of the Council.

(3) The Council shall from time to time by resolution fix the maximum amount that may be held at any time in the Imprest Account, not exceeding seventy-five pounds in any case where the Imprest Account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(4) Moneys in the Imprest Account shall be available only for the payment of casual wages and of emergency expenditure. A statement of all payments made from the Imprest Account shall be submitted to the Council for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorized shall be deemed to be the misappropriation of the funds of the Council.

(5) The provisions of sections seventy-four and seventy-five of the principal Act shall be read subject to the provisions of this section.

Application to farming-lands in town districts.

Repeals.

Council may establish an Imprest Account.

Water rates for ordinary supply may be uniform or graduated as Council from time to time determines.

10. Section eighty-two of the principal Act is hereby amended by repealing subsection four, and substituting the following subsections:—

“(4) In respect of the ordinary supply to lands and dwellinghouses to which water is supplied the rate shall be either a uniform rate or a graduated rate, as the Council may from time to time determine.

“(4A) Where a uniform rate is charged it shall be computed as follows:—

“(a) Where the annual value does not exceed twelve pounds ten shillings, the rate shall not exceed ten shillings per annum:

“(b) Where the annual value exceeds twelve pounds ten shillings, the rate shall not exceed six per centum thereof, but in no such case shall the rate be less than ten shillings.

“(4B) Where a graduated rate is charged it shall be computed as follows:—

“(c) Where the annual value does not exceed twelve pounds ten shillings, the rate shall not exceed ten shillings per annum:

“(d) Where the annual value exceeds twelve pounds ten shillings, the rate shall not exceed the following:—

“(i) Seven per centum of so much of such value as does not exceed one hundred pounds:

“(ii) Six per centum of so much of such value as exceeds one hundred pounds but does not exceed two hundred pounds:

“(iii) Five per centum of so much of such value as exceeds two hundred pounds but does not exceed three hundred pounds:

“(iv) Four per centum of so much of such value as exceeds three hundred pounds:

but in no such case shall the rate be less than ten shillings.”

11. Notwithstanding anything to the contrary in the principal Act, a Council may with the consent of the Governor-General in Council make and levy water rates and charges in respect both of the ordinary as well as of any extraordinary supply, according to the quantity of water consumed by any person receiving the same as measured by meter, at such rates or charges as may from time to time be fixed by any by-law of the Council in that behalf or as may be agreed on with any such person; and all water rates or charges so payable shall for all purposes be deemed to be separate rates.

12. Subsection three of section eighty-nine of the principal Act is hereby repealed, and the following substituted therefor:—

“(3) Such annual charge shall for all purposes be deemed to be a separate rate.”

13. (1) A Council may from time to time out of its General Account, or out of the separate account kept in respect of any trading undertaking of the Council, pay by way of subsidy such sums as it thinks fit to the funds of any sick, death, or funeral benefit society or other like institution established by its employees, or any section of them, the benefits of which are confined to such employees and their dependants.

(2) This section shall be deemed to have come into force on the first day of April, nineteen hundred and twenty-eight.

Council may with consent of Governor-General in Council fix water charges according to quantity used.

Section 89 of principal Act amended.

Council may subsidize sick-benefit society established by its employees.

14. With respect to petitions presented after the first day of January, nineteen hundred and twenty-nine, to the Governor-General under the principal Act, or to the Council under the principal Act or any other Act, the following provisions, in addition to any other provisions applicable thereto, shall apply:—

Special provisions  
as to petitions.

- (a) Every such petition shall be dated as of the date on which the first signature is affixed thereto.
- (b) No action on any petition shall be taken unless it is received by the Minister on behalf of the Governor-General, or by the Council, as the case may be, within twelve months after the date thereof.
- (c) No person shall be capable of withdrawing his signature from the petition after it has been received by the Minister or by the Council, and any act purporting to withdraw any such signature shall be null and void.

15. (1) Every Commission under section one hundred and thirty-one or section one hundred and thirty-two of the principal Act may make an order pursuant to section eleven of the Commissions of Inquiry Act, 1908, as to payment of the costs of the inquiry; and where the inquiry is with respect to the proposed constitution of a new borough may if it thinks fit, in exercise of the power conferred by the said section, order that the whole or any portion of such costs shall, if such new borough is constituted, be paid by the Council thereof, and that in any other case the amount so ordered to be paid shall be paid by such of the parties to the inquiry and in such proportions as are specified in the order.

Payment of costs  
of Commissions and  
certain polls under  
sections 131 and  
132 of principal  
Act.

(2) The cost of taking any poll under either of the said sections shall be defrayed by such of the local authorities concerned, or by such persons being parties to the inquiry preceding the poll, and in such proportions as the Governor-General by Order in Council directs.

(3) Any amount payable by any local authority or other party to an inquiry pursuant to an Order in Council under the last preceding subsection shall constitute a debt due to the Crown, and all moneys so received shall, without further appropriation than this section, be applied in payment of the cost of taking such poll as aforesaid.

(4) Subsection two of section one hundred and thirty-one and paragraph (h) of subsection one of section one hundred and thirty-two of the principal Act are hereby consequentially repealed.

Consequential  
repeals.

16. Section one hundred and thirty-two of the principal Act is hereby declared to authorize and always to have authorized in the manner therein provided the exclusion of any area from a borough and its inclusion in an adjoining borough.

Removing doubts  
as to scope of  
section 132 of  
principal Act.

17. (1) The power conferred on the Governor-General by section one hundred and thirty-four of the principal Act to alter the boundaries of a borough by including therein any land in respect of which there are no electors is hereby extended to enable him by Proclamation, on the petition publicly notified of the Council of a borough, to exclude from such borough any land therein in respect of which there are no electors, and to include such land in another borough adjacent thereto or in any other adjoining district.

Section 134 of  
principal Act  
extended.

(2) Such Proclamation may declare that the land thereby excluded from the borough shall be included in any particular subdivision of such adjoining district.

Section 140 of principal Act amended.

18. Subsection two of section one hundred and forty of the principal Act is hereby amended by omitting the words "Governor-General in Council," and substituting the words "Proclamation effecting the union or by a subsequent Proclamation in that behalf."

Section 144 of principal Act amended.

19. Section one hundred and forty-four of the principal Act is hereby amended as follows:—

- (a) By omitting from subsection one the words "then the whole Council shall go out of office, and";
- (b) By omitting from the proviso to subsection one the words "for the whole Council to go out of office," and substituting the words "to hold an election of the full number of members of the Council"; and
- (c) By omitting from subsection two the words "then the Councillors of the ward affected shall go out of office and."

Council may sell or exchange lands vested in Corporation.

20. (1) Save as provided in subsection three hereof, a Council, pursuant to a special order in that behalf, may sell any land vested in the Corporation, or exchange any such land, and in respect of any such exchange may give or receive any money for equality of exchange.

(2) Where any land so sold or exchanged was at the time of such sale or exchange vested in the Corporation in trust for any particular purpose or purposes, whether by or pursuant to any Act or any deed of trust or otherwise howsoever, all moneys received by the Council upon such sale or exchange shall be applied to the purchase of other lands to be held for the same purposes as affected the lands disposed of, and all lands received in exchange shall be held for the purposes that affected the land given in exchange.

(3) Nothing in this section shall be deemed—

- (a) To authorize the Council to deal with any public reserve within the meaning of the Public Reserves and Domains Act, 1908, or any Act that may hereafter be passed in substitution therefor, otherwise than in accordance with the provisions of that Act;
- (b) To apply to the sale or exchange of any land by the Council pursuant to the power conferred by section one hundred and ninety-one of the principal Act or to any express power conferred by any other Act;
- (c) To authorize the sale or exchange of any land vested in the Corporation in trust for any particular purpose, if the sale of such land is expressly prohibited by the instrument creating the trust.

Repeal.

(4) This section is in substitution for section one hundred and fifty-one of the principal Act, and that section is hereby accordingly repealed.

Fourth Schedule to principal Act amended.

21. The Fourth Schedule to the principal Act is hereby amended as follows:—

- (a) By repealing clause two, and substituting the following clause:—

"(2) The said plans shall be open to public inspection at the office of the Council, and the Council shall at least

twice, at intervals of not less than seven days, give public notice of the proposals and of the place where the plans may be inspected, and shall in such notice call upon persons objecting to the proposals to lodge their objections in writing at the office of the Council on or before a date to be specified in the notice, being not earlier than forty days after the date of the first publication thereof. The Council shall also forthwith after such first publication serve a notice in the same form on the owners or occupiers of all land adjoining the street proposed to be stopped or any new street proposed to be made in lieu thereof, so far as they can be ascertained."

- (b) By omitting from clause three the words "during the said period," and inserting the words "during the period between the first publication of such notice and the expiration of the last day for lodging objections as aforesaid."
- (c) By repealing clause four, and substituting the following clauses:—

"(4) If no objections are received within the time limited as aforesaid, the Council may by public notice declare that the said street is stopped; and such street shall, subject to the Council's compliance with clause eleven of this Schedule, thereafter cease to be a public highway.

"(4A) If objections are received as aforesaid, the Council shall by public notice call a meeting of the electors to be held at a time and place specified in the notice, the time so specified being not earlier than fourteen days after the date of the publication of the notice."

22. Section one hundred and eighty-nine of the principal Act is hereby amended as follows:—

Section 189 of principal Act amended.

- (a) By omitting from subsection one the words "thirty-three feet," and substituting the words "a specified distance being not greater than fifty feet":
- (b) By omitting from subsection two the words "sixty-six feet," and substituting the words "a specified distance being not greater than one hundred feet."

23. Section two hundred of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:—

Protection of Crown's rights with respect to telegraph and other lines placed under streets.

"(2) Except with the prior consent in writing of the Postmaster-General or the Minister of Public Works, as the case may require, the Council shall not authorize or suffer any encroachment on a street if such encroachment would or might interfere with or in any way obstruct the right of the Crown to construct, place, maintain, alter, remove, or otherwise deal with any electric wires, telephone-wires, telegraph-wires, or pneumatic tubes on, over, or under such street."

24. (1) Subject to the provisions of section two hundred of the principal Act as amended by the last preceding section, a Council or, as the case may be, the Town Board of a town district not forming part of any county, may by special order grant to any person, firm, or company an easement or other right for such period not exceeding fifty years, and on such terms and conditions as the Council or Board thinks fit, authorizing such person, firm, or company to lay conduit-pipes for petroleum in the borough or town district under

Council or Town Board may grant right to lay petroleum conduit pipes along or under streets.



or along any street or other public highway, or (with the consent of the owners) along any private way; but no such grant shall be to the exclusion of like grants to any other person, firm, or company.

(2) The grant of any such right or easement shall be subject to the payment of such rent, and to the observance of such conditions as to size, construction, repair, and maintenance of such conduit-pipes, and as to repair of any street, public highway, or private way under or along which they are laid, as the Council or Board thinks fit.

Council may drain areas outside borough.

25. (1) A Council may with the consent of the local authority of any adjoining district extend its drainage-system into any area of such district; and at the request of the owner of any premises in such area, and on such terms and conditions, including the payment by the owner of an annual charge in respect of the service rendered by such connection, as the Council determines, connect such premises with such system; and for such purpose all the provisions of the principal Act relating to drainage, and all the powers given to the Council thereby, shall apply equally to all places, persons, and things in such area as to the same within the borough.

(2) The Council may at any time on giving three months' notice in writing of intention so to do disconnect any such premises from its drainage-system without being liable to pay any compensation in respect thereof.

(3) Where any such area becomes part of the borough at a time when a drainage rate pursuant to section ninety of the principal Act is not charged within the borough, the Council may, until it makes and levies such a drainage rate, continue the service rendered by such connection at such charge as was in force immediately before the inclusion of the area in the borough.

Advances may be made to owners to provide drainage fittings.

26. The purposes for which moneys may be advanced to owners of private property under section two hundred and twenty-eight of the principal Act are hereby declared to include and always to have included the provision of all fittings necessary to enable the proper disposal of waste-waters and sewage matter.

Moneys payable to Council in respect of drainage to be a charge on property.

27. All moneys payable to a Council by the owner of any property for or in respect of any work, materials or things executed, provided, or done by the Council on or to such property in relation to drainage or sanitation under any power in that behalf shall be a charge on that property.

Charge for water to inhabitants of area added to borough in certain cases.

28. Where any area to which water is supplied by the Council of a borough pursuant to the authority conferred by section two hundred and forty-seven of the principal Act becomes part of the borough at a time when a water rate pursuant to section eighty-two of the principal Act in respect of the ordinary supply is not charged within the borough, the Council may, until it makes and levies such a water rate, continue to supply water to the inhabitants of such area at such rate or charges as were in force immediately before its inclusion in the borough.

Sections 266 and 308 of principal Act amended.

29. Section two hundred and sixty-six and subsection three of section three hundred and eight of the principal Act are hereby respectively amended by adding thereto the words "at any time after the thirty-first day of March next following the date of the constitution of the Fire Board of such fire district."

30. (1) Where the total amount of any advance hereafter made to the occupier of any premises, pursuant to section two hundred and eighty-three of the principal Act, in respect of the cost of installing gas or electricity therein, together with any amount then outstanding in respect of prior advances for a like purpose, whether such prior advances were made before or after the passing of this Act, exceeds thirty pounds, the amount of such advance shall not be a charge on the land upon which the premises are situated, unless prior to such installation consent in writing is given thereto by or on behalf of the owner (if the occupier is not the owner), and, where the land is subject to any registered mortgage, is also given by or on behalf of the mortgagee or mortgagees.

Section 283 of principal Act (as to charges on land in respect of cost of installing gas or electricity) modified.

(2) Subsection four of the said section two hundred and eighty-three, as appearing in section fifteen of the Municipal Corporations Amendment Act, 1921-22, shall be read subject to the foregoing provisions of this section.

31. (1) The power conferred on a Council by subsection three of section three hundred and two of the principal Act to make payments in respect of musical entertainments for the purpose of the enjoyment or recreation of the public is hereby extended to enable payments to be made to a person or persons for supplying musical entertainment on any steamers or other vessels forming part of any ferry service established by the Council, or at any terminus of such service.

Section 302 of principal Act extended.

(2) Any such payment as aforesaid may be made by the Council either out of its general funds or out of the separate account kept in connection with such ferry service.

32. A Council having the management and control of any public reserve not vested in the Corporation of the borough may borrow moneys by way of special loan under the Local Bodies' Loans Act, 1926, and expend the proceeds of such loan on the improvement and development of such reserve.

Council may borrow moneys for improvement of public reserves managed and controlled by it.

33. Section three hundred and three of the principal Act is hereby amended by inserting, after the word "creches," the words "and dental clinics."

Council may aid dental clinics.

34. A Council may from time to time out of its General Account make such grants as it thinks fit, not exceeding one hundred pounds in any one year, for the purposes of the Workers' Educational Association.

Council may make grants to Workers' Educational Association.

35. A Council may from time to time out of its General Account contribute such sums as it thinks fit towards the maintenance or improvement of any cemetery under the Cemeteries Act, 1908, not vested in the Corporation of the Borough, whether such cemetery is situated within or outside the boundaries of the borough.

Council may contribute towards maintenance and improvement of cemeteries.

36. (1) Where pursuant to any authority conferred on it by the principal Act or any other Act the Council erects any building it may make provision therein for shops or offices, and may let any such shop or office at such rental, for such term, upon such conditions, and to such person or persons as it thinks fit :

Council or Town Board may provide shops and offices in buildings erected by it.

Provided that it shall not be lawful for the Council to make provision as aforesaid for shops or offices to such an extent as to impair the building for use for the purpose for which it was authorized to be erected, or otherwise to make its principal purpose the provision of shops or offices.

(2) This section shall apply to Town Boards.

Section 312 of principal Act amended.

37. (1) Subsection two of section three hundred and twelve of the principal Act is hereby amended by omitting the words "the Supreme Court," and substituting the words "a Magistrate's Court."

Eleventh Schedule of principal Act amended.

(2) Subclause one of clause four of the Eleventh Schedule to the principal Act is hereby amended by omitting the words "the Supreme Court," and substituting the words "a Magistrate's Court."

Further provisions with respect to licensing buildings for public meetings, &c.

38. (1) Notwithstanding anything to the contrary in Part XXXII of, or in the Eleventh Schedule to, the principal Act, a Council may—

(a) Refuse to grant a license to use a building for any of the purposes mentioned in section three hundred and eight of that Act to any person if it is satisfied that he is not a person of good character and reputation:

(b) Suspend or cancel a license, either wholly or for such period as it thinks fit, if satisfied that the licensee has since the granting of the license become of bad character and reputation or otherwise not a fit and proper person to hold such a license, and forthwith give notice of such suspension or cancellation.

(2) Before refusing any license pursuant to the authority conferred by paragraph (a) of the last preceding subsection the Council shall give to the applicant an opportunity to be heard before a committee of the Council.

(3) Every person aggrieved at the refusal of the Council to grant a license, or any licensee aggrieved at the cancellation or suspension of his license, pursuant to the authority conferred by this section, shall have the same right of appeal as is given in the said Eleventh Schedule to a person to whom a license is refused, and a Magistrate's Court shall have the power to direct the Council to issue a license or to revoke any such cancellation or suspension.

(4) The powers conferred by this section are in addition to, and not in substitution for, the powers conferred on a Council by Part XXXII and the Eleventh Schedule to the principal Act.

Section 333 of principal Act amended.

39. Section three hundred and thirty-three of the principal Act is hereby amended by adding thereto the words "and for the construction of streets on land used for the erection of workers' dwellings."

Council may define areas for storage of dangerous goods.

40. The power conferred on a Council by section three hundred and fifty-four of the principal Act to make by-laws with respect to the storage of dangerous goods is hereby extended to enable a Council to make by-laws defining areas in the borough within which such goods may be stored in bulk, and prohibiting such storage elsewhere than in such areas.

Section 354 of principal Act amended.

41. Section three hundred and fifty-four of the principal Act is hereby amended by adding thereto the following paragraph:—

"(43) Prohibiting or regulating the soliciting of subscriptions or donations for any purpose in streets or other public places."

Section 367 of principal Act amended.

42. Section three hundred and sixty-seven of the principal Act is hereby amended by omitting the words "or special district."

*Accounts.*

43. (1) For the purposes of this section and of sections forty-four to fifty-nine hereof and of Part XIII of the principal Act "trading undertaking" means any tramway service, ferry service, or other service for the conveyance of passengers or goods, any gas or electric-light undertaking, any power-supply undertaking, and includes such other undertakings as may from time to time be declared by the Governor-General in Council to be trading undertakings.

"Trading undertaking" defined.

(2) Nothing in sections forty-four to fifty-nine hereof relating to fire-insurance funds, accident funds, depreciation funds, and reserve funds respectively in connection with any trading undertaking shall apply with respect to any trading undertaking in connection with which any Council is by special Act authorized to establish any such fund or any renewal fund.

(3) Nothing in clauses eleven and eleven A of the Second Schedule to the Tramways Act, 1908, shall have any application to any tramway service of a Borough Council.

44. Every Council shall keep such accounts and keep them in such manner as may be prescribed by the Audit Office, but so always that—

Accounts to be kept in accordance with requirements of Audit Office.

(a) A General Account shall be kept, and credited with all moneys not required by this Act or by any regulation thereunder to be carried to any other account, and debited with ordinary expenditure ;

(b) Separate accounts shall be kept of all moneys raised or levied for, or appropriated or allocated to, or held in trust for, any special purpose, and of all moneys accruing from any trading undertaking carried on by the Council ; and

(c) A Profit and Loss Account shall be kept in respect of each trading undertaking carried on by the Council.

45. The Council may from time to time set aside out of its General Account any moneys to form a fund or funds for the re-erection, repair, or reinstatement of any buildings or other property of the Corporation that may be destroyed or damaged by fire, and may from time to time invest any moneys so set aside and pay the proceeds of such investment into the said fund or funds.

Fire-insurance fund.

46. (1) The Council may from time to time set aside out of its General Account any moneys to form a fund or funds to meet claims for accidents arising out of the exercise and performance by the Council of its powers, duties, and functions under the principal Act or any other Act ; but no greater sum shall be set aside in any one year than the amount that at current rates would have been payable for that year in respect of the insurance of workers employed by the Council and in respect of insurance against public risk.

Council may establish accident funds.

(2) The Council may from time to time invest any moneys so set aside and pay the proceeds into the said fund or funds.

47. (1) The Council shall in each financial year, after making provision for the payment of interest and sinking fund in respect of any loans in connection with any trading undertaking carried on by it, and for maintenance and repairs, make a charge against the revenues of such undertaking to provide for full and proper depreciation of the assets of the undertaking :

Council to make charge to provide for depreciation in respect of each trading undertaking.

Provided that it shall not be necessary for the Council in making any such charge for depreciation in respect of a trading undertaking existing at the commencement of this Act to take into account any failure by the Council at any time prior to such commencement to make sufficient provision for depreciation of the depreciable assets of such undertaking :

Provided further that if any dispute arises between the Audit Office and the Council as to the sufficiency of the charge made for depreciation the matter shall be referred to the Minister, whose decision shall be final.

(2) In ascertaining what is the full and proper depreciation to be provided in any year in accordance with the requirements of the last preceding subsection the Council may take into account—

(a) The extent to which moneys then available for renewing or replacing the depreciable assets of the undertaking, and for no other purpose, are proved to the satisfaction of the Audit Office to be in excess of the amount that would then represent full and proper provision for depreciation of the depreciable assets of the undertaking from the date of the establishment of that undertaking :

(b) Any expenditure during that year out of the revenues of the undertaking on renewals and replacements of the depreciable assets thereof.

(3) The amount of any charge for depreciation made in accordance with the foregoing provisions of this section shall be credited to a Depreciation Fund :

Provided that where in that year payments have been made out of the revenues of the undertaking to meet sinking-fund charges in respect of any loan-moneys expended on the creation of depreciable assets of the undertaking, the Council may if it thinks fit deduct from the total amount of such charge for depreciation the total amount of such payments in respect of sinking-fund charges, and in such case the balance remaining shall be the amount that shall be charged against the revenues of the undertaking and credited to the Depreciation Fund.

Council to appoint  
Commissioners of  
Depreciation Fund.

48. (1) When the Council has credited a Depreciation Fund with the amount of any charge made by it under the last preceding section, it shall, save as provided in subsection four hereof, appoint three Commissioners, to be called "Depreciation Fund Commissioners," and thereupon sections forty, forty-one, and forty-four of the Local Bodies' Loans Act, 1926, shall, with the necessary modifications, apply to such Commissioners in like manner as if they were Sinking Fund Commissioners appointed under the said section forty.

(2) No Councillor or employee of the Council shall be appointed a Commissioner under this section, and if any Commissioner becomes a Councillor or an employee of the Council he shall forthwith vacate his office as Commissioner.

(3) All Renewal Fund Commissioners appointed under section one hundred and fifteen of the principal Act shall on the commencement of this Act cease to hold office as such, and every body corporate consisting of such Commissioners is hereby dissolved ; but all such Commissioners in office at the commencement of this Act shall, without

further appointment, be Depreciation Fund Commissioners for the purposes of this section, and all moneys then held by them as Renewal Fund Commissioners shall continue to be held by them as, and are hereby declared to be moneys belonging to, their respective Depreciation Funds, to be dealt with as provided in sections forty-nine to fifty-seven hereof.

(4) Notwithstanding anything in subsection one hereof the Council may appoint the Public Trustee to be the sole Commissioner of the Depreciation Fund.

49. (1) Save as hereinafter in this section provided, the Council shall in the month of April of each year pay to the Depreciation Fund Commissioners all moneys credited in the previous financial year to the Depreciation Fund pursuant to section forty-seven hereof.

Moneys to be paid to Commissioners.

(2) Where from any cause the full amount so credited cannot be paid to the Depreciation Fund Commissioners as required by the last preceding subsection, the following provisions shall apply :—

(a) The amount of the deficiency may with the consent of the Audit Office be met by the Council during the then current financial year out of moneys that may be received during that year in respect of the revenues of the trading undertaking for that or any previous year, and be paid to the Depreciation Fund Commissioners from time to time as moneys become available for that purpose ; or

(b) The Council may—

(i) To the extent to which the deficiency has been caused by payments out of revenue to meet interest and sinking - fund charges in respect of loans raised for the purposes of the undertaking, recoup such payments by levying such amount as may be necessary of any special rate made as security for the repayment of such loan ; and then

(ii) Make and levy a separate rate on the rateable value of all rateable property in the borough, sufficient to provide the balance (if any) of the deficiency ; or

(c) The Council may with the consent of the Audit Office provide the amount necessary to meet the deficiency partly out of revenue and partly out of rates as provided in the last preceding paragraph.

(3) The proceeds of rates levied pursuant to the authority conferred by the last preceding subsection shall, notwithstanding anything to the contrary in any Act, be paid to the Depreciation Fund Commissioners as and when received.

50. The Commissioners may invest all moneys received by them pursuant to the last preceding section in the manner following, that is to say,—

How fund to be invested by Commissioners.

(a) In New Zealand Government securities ; or

(b) On deposit in any bank lawfully carrying on the business of banking in New Zealand, or in the Post Office Savings-bank ; or

(c) In the Common Fund of the Public Trust Office ; or

(d) In any other securities that may from time to time be authorized by the Governor-General in Council :

Provided that where the Public Trustee is appointed to be the sole Depreciation Fund Commissioner he shall invest the moneys of the Depreciation Fund in the Common Fund of the Public Trust Office or in such other manner as may be specially authorized in that behalf by the Governor-General in Council.

Accounts.

51. Separate accounts shall be kept by the Commissioners of all moneys paid to or received by them in respect of each trading undertaking, and in preparing the yearly statement of accounts pursuant to section forty-four of the Local Bodies' Loans Act, 1926, as applied by this Act, the Commissioners shall show in detail the amount of all moneys paid to or received by the Commissioners as aforesaid.

Application of  
Depreciation Fund  
by Commissioners.

52. All moneys received by the Commissioners as aforesaid in respect of any trading undertaking, together with all accumulations thereof, shall be held by the Commissioners upon trust to pay the same to the Council, either in one sum or from time to time by instalments in respect of that undertaking, for the purpose of renewing or replacing the plant of the undertaking, or any part or parts thereof, that may from time to time become worn out, obsolete, or incapable from any other cause of further usefulness in connection with the undertaking.

Demands on  
Commissioners.

53. (1) Every demand made by the Council upon the Commissioners for any sum shall be accompanied by a copy of the resolution duly passed by the Council calling up such money, and by a full specification of the works proposed to be done. No such demand shall be for a less sum in any case than two hundred pounds, or for the total amount standing to the credit of the Depreciation Fund if that amount is less than two hundred pounds.

(2) Every such resolution of the Council shall contain a statement that the money proposed to be called up is required to replace plant or material that has become worn out or obsolete, or is incapable from any other cause of further usefulness, and shall be certified by the Mayor and Town Clerk as a correct copy of the resolution.

Commissioners may  
call for report in  
respect of demand  
made upon them.

54. (1) The Commissioners may call for a report by an engineer or other qualified person to be appointed by them in respect of any demand under the foregoing provisions.

(2) Such engineer or other person shall have the right to inquire into the reasons why the Council proposes to expend the money asked for, and the nature and extent of the work proposed to be done.

(3) The Commissioners may pay to such engineer or other qualified person, out of the moneys held by them in respect of the undertaking to which the report relates, a reasonable sum for his services.

Commissioners may  
pay amount of  
demand by  
instalments or may  
decline to pay  
except on order  
of Supreme Court.

55. (1) The Commissioners may pay the money so demanded by instalments as the works proceed, or may decline to pay the said money except under an order of the Supreme Court, in which case the Council may by a summons in Chambers apply for an order directing the Commissioners to pay to the Council the money so demanded; and if the Court is satisfied that the money required is necessary to replace or renew plant which has become worn out or obsolete, or incapable from any other cause of further profitable usefulness, the Court may make an order authorizing the payment of the money to the Council.

(2) The decision of the Supreme Court in any such case shall be final.

56. The Commissioners shall not be obliged to see to the application of any moneys which may from time to time be paid or advanced by them to the Council under the foregoing provisions of this Act.

Commissioners not to be responsible to see to application of fund by Council.

57. (1) The Council, having established a Depreciation Fund as aforesaid in respect of any trading undertaking, may in any year make an appropriation from the revenue of that undertaking to provide a Reserve Fund.

Council may establish Reserve Fund for trading undertakings.

(2) The Council shall in the month of April next following pay such appropriation into a separate bank account.

(3) The moneys paid into such account shall be applied for such extensions and permanent improvements of the undertaking in connection with which the fund is established as the Council thinks fit.

(4) If at any time the Depreciation Fund is insufficient for the purposes for which it is established the Council may use any part of the Reserve Fund for those purposes.

(5) The Council may from time to time, with the consent of the Audit Office, use any moneys forming part of the Reserve Fund for the purpose of recouping in whole or in part any deficiency in the Profit and Loss Account.

(6) The Council may invest any part of the Reserve Fund in manner following:—

(a) In New Zealand Government securities, or

(b) On deposit in any bank lawfully carrying on the business of banking in New Zealand, or in the Post Office Savings-bank; or

(c) In the Common Fund of the Public Trust Office; or

(d) In any other securities that may from time to time be authorized by the Governor-General in Council.

(7) Separate accounts shall be kept by the Council of all moneys paid to or received by them in respect of such Reserve Fund, and all such accounts shall be audited by the Audit Office.

58. (1) The Council shall, unless the Audit Office otherwise directs, annually transfer to the General Account from each separate account kept by it such sum as in the opinion of the Council represents the proportionate part attributable to such separate account of the payment made out of the General Account to any sick-benefit society that may be established by its employees, or to any fire-insurance or accident fund that may be established by the Council.

Transfers to General Account from separate accounts of proportionate parts of certain payments.

(2) The Council may in like manner so transfer such proportionate part of the office, clerical, legal, and other expenses of the Council of any nature whatsoever.

(3) If the Audit Office considers that any sum so transferred is excessive, or insufficient, or that no sum should be transferred from any particular separate account, the Council shall forthwith retransfer from the General Account the whole, or so much thereof as the Audit Office directs, of the sum transferred from that separate account, or, as the case may require, shall transfer to the General Account from the separate account such sum as the Audit Office directs.

59. (1) The Council may from time to time transfer to the General Account any cash surplus remaining to the credit of any separate account which the Council is obliged by law to keep, showing the moneys accruing from any public works or trading undertakings

Transfers to General Account from separate accounts of cash surpluses.



executed, maintained, or carried on by the Council, or to transfer the whole or any part of such surplus to a separate account for the maintenance or renewal of such works:

Provided that no moneys shall be so transferred until due provision is made for all sums with which the separate account is by law chargeable, and for the payment out of the separate account of the interest, or interest and sinking fund, on any loan raised in connection with the work or undertaking to which the separate account relates.

(2) If the balance in any of the separate accounts is at any time insufficient to meet the lawful charges thereon, the Council may transfer such sums as are necessary from the General Account to meet the same, and may at any time repay any sum so transferred out of any excess in the receipts over the liabilities of any such account:

Provided that nothing in this subsection shall authorize the Council to pay out of its General Account the interest, or interest and sinking fund, on any loan otherwise than in the manner prescribed by section twenty-two of the Local Bodies' Loans Act, 1926.

(3) It shall not be lawful to make any transfer from any one to any other of such separate accounts, except as in this Act provided.

Repeals

60. (1) Sections forty-three to fifty-nine of this Act are in substitution for sections one hundred and ten to one hundred and twenty-five of the principal Act, and shall be deemed to form part of Part XIII thereof.

(2) The said sections one hundred and ten to one hundred and twenty-five and sections twelve and thirteen of the Municipal Corporations Amendment Act, 1921-22, are hereby repealed.

(3) This section and the said sections forty-three to fifty-nine of this Act shall come into force on the first day of April, nineteen hundred and twenty-nine.

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