

New Zealand.

ANALYSIS.

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1934, No. 17.

AN ACT to restrict the making of Contracts between Local Authorities and the Members thereof. Title.

[23rd October, 1934.]

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 Local Authorities (Members' Contracts) Act, 1934. Short Title.

2. In this Act, if not inconsistent with the context, the term "local authority" includes every Borough Council, County Council, Domain Board, Drainage Board, Education Board, Electric-power Board, Fire Board, Harbour Board, Hospital Board, National Park Board, Rabbit Board, Railway Board, River Board, Road Board, Town Board, and Water-supply Board; the trustees of a public reserve; a special Board under the Public Reserves, Domains, and National Parks Act, 1928; the governing body of any secondary school; the controlling authority of any combined school; the controlling authority Interpretation.

and Board of Managers of any technical school; the trustees of any cemetery; the managers of any burial-ground; the Auckland Electric-power Board; the Auckland Transport Board; the Christchurch Tramway Board; the Dunedin Drainage and Sewerage Board; the Peel Forest Board; the Petone and Lower Hutt Gas-lighting Board; and such other local authorities or public bodies as may from time to time be declared by the Governor-General by Order in Council to be local authorities for the purposes of this Act.

3. No person shall be capable of being elected or appointed to be or of being a member of any local authority if he 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 local authority if the payment made or to be made by or on behalf of the local authority in respect of any such contract or contracts exceeds ten pounds in the case of any contract, or twenty-five pounds altogether in any financial year, except in special cases to be previously approved by the Audit Office on the application of the local authority. 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 :

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

Provided further that no employee of an insurance company or of the State Fire Insurance Office shall be disqualified for being elected or appointed to be a member of any Fire Board by virtue of his receiving from such company or Office any remuneration, whether by way of bonus, commission, or otherwise in respect of any contract of insurance between the Board and such company or Office :

Provided also that no person shall be disqualified for being elected or appointed to be a member of any local authority by virtue of his being interested or concerned in any contract made before his election

Disqualifying
contracts
between local
authorities and
their members.

or appointment, if before such election or appointment his obligation under such contract has been performed and the amount to be paid by or on behalf of the local authority has been fixed; and any payment made thereafter by or on behalf of the local authority pursuant to such contract shall not operate to disqualify such person for continuing to hold office or be taken into account for the purpose of computing the amount that may lawfully be paid to him as a member of such local authority in the same financial year in respect of any contract or contracts.

4. (1) If any person, while holding office as a member of any local authority, becomes incapable of continuing to hold office under the last preceding section his office shall be thereby vacated, and such vacancy shall be deemed an extraordinary vacancy, and shall be filled in the manner (if any) provided by law for the filling of extraordinary or casual vacancies in the membership of such local authority, and if no provision exists for the filling of extraordinary or casual vacancies, may be filled in such manner as the Governor-General in Council may prescribe.

Extraordinary
vacancy created
and person
affected
disqualified for
re-election.

(2) Every person whose office is vacated pursuant to the last preceding subsection shall thereby be disqualified for being elected or appointed as a member of the local authority until the next general or ordinary election or appointment, as the case may be, of members thereof.

5. Every person commits an offence who does any act as a member of any local authority while incapacitated under section three hereof, and shall be liable to a fine not exceeding fifty pounds for every such offence.

Penalty for
unlawfully
acting.

6. It shall be unlawful for any local authority to pay, directly or indirectly, to or for the benefit of any member of that local authority who is so concerned or interested in any contract mentioned in section three hereof as to be incapacitated under that section, any sum of money under or in respect of such contract or any subject-matter thereof; and any sum paid by the local authority shall be deemed to be moneys unlawfully expended, and may be recovered accordingly.

Local authority
not to make
payments under
disqualifying
contracts.

7. It shall be the duty of the Audit Office to institute proceedings for offences under this Act, but nothing herein shall be so construed as to prevent such proceedings from being taken by any other person.

Audit Office
to institute
proceedings.

Fines

8. All fines recovered under this Act by the Audit Office shall be paid into the Public Account and form part of the Consolidated Fund.

Repeals and amendments of other Acts.

Repeal.

See Reprint of Statutes, Vol. VI, p. 1003

9. (1) The Acts mentioned in the Schedule hereto are hereby amended to the extent specified in that Schedule.

(2) The Public Contracts and Local Bodies' Contractors Amendment Act, 1921-22, is hereby repealed.

(3) Any provisions in any Act (other than those referred to in the Schedule hereto) restraining the members of any local authority to which this Act applies from contracting with it, either wholly or beyond certain limits, or disqualifying as members of such local authority any persons so contracting, and all provisions incidental to any such first-mentioned provisions, shall be read subject to the provisions of this Act.

(4) When any local authority or public body is hereafter declared to be a local authority for the purposes of this Act, any provisions in any Act affecting members of such local authority or public body in relation to contracts with its members shall, to the extent to which they apply to such local authority or public body, be read subject to the provisions of this Act.

(5) Section three of this Act shall, in its application to the Ohai Railway Board, be read subject to the provisions set out in section two of the Ohai Railway Board Amendment Act, 1934, in all respects as if those provisions formed part of the said section three.

Schedule.

SCHEDULE.

Name of Act.	Extent of Amendments.	References to Reprint of Statutes.
1921-22, Local, No. 17— The Auckland Electric-power Board Act, 1921-22	By repealing subsections (3), (4), and (6) of section 12	
1924, Local, No. 10— The Auckland Electric-power Board Amendment Act, 1924	By repealing subsections (1) and (2) of section 3	

Name of Act.	Extent of Amendments.	References to Reprint of Statutes.
1928, No. 44— The Auckland Transport Board Act, 1928	By repealing para- graph (g) of sub- section (2) of sec- tion 10 By repealing para- graph (h) of sub- section (1) and subsections (3), (4), and (6) of section 11	
1920, Local, No. 15— The Christchurch Tram- way District Act, 1920	By repealing para- graph (b) of sec- tion 22	
1920, No. 47— The Counties Act, 1920 ..	By repealing subsec- tion (2) of sec- tion 63	Vol. V, p. 204.
1921-22, No. 24— The Counties Amendment Act, 1921-22	By repealing subsec- tion (2) of sec- tion 4	Ibid., p. 268.
1927, No. 22— The Counties Amendment Act, 1927	By repealing sec- tion 5	Ibid., p. 274.
1900, Local, No. 25— The Dunedin District Drainage and Sewerage Act, 1900	By repealing para- graph (2) of sec- tion 13 By omitting from section 14 all words after the words "Court of competent juris- diction"	
1902, Local, No. 15— The Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1902	By repealing sec- tion 5	

Name of Act.	Extent of Amendments.	References to Reprint of Statutes.
1925, No. 38— The Electric-power Boards Act, 1925	By repealing paragraph (g) of section 21 By repealing paragraph (h) of subsection (1) and subsections (3) and (4) of section 22	Vol. III, p. 16. Ibid., p. 17.
1927, No. 76— The Electric-power Boards Amendment Act, 1927	By repealing sections 5, 6, and 7	Ibid., p. 58.
1932, No. 26— The Fire Brigades Amendment Act, 1932	By repealing section 10	
1923, No. 40— The Harbours Act, 1923..	By repealing section 36	Ibid., p. 582.
1933, No. 31— The Harbours Amendment Act, 1933	By repealing section 2	
1926, No. 18— The Hospitals and Charitable Institutions Act, 1926	By repealing subsections (3) and (4) of section 24	Ibid., p. 736.
1932, No. 22— The Hospitals and Charitable Institutions Amendment Act, 1932	By repealing sections 8 and 9	
1914, No. 32— The Local Railways Act, 1914	By repealing paragraph (g) of subsection (1) of section 5 By repealing paragraph (h) of subsection (1) and subsections (3), (4), and (6) of section 16	Vol. VII, p. 937. Ibid., p. 941.
1933, No. 30— The Municipal Corporations Act, 1933	By repealing paragraph (g) of section 37 By repealing section 40	

Name of Act.	Extent of Amendments.	References to Reprint of Statutes.
1932, Local, No. 2— The Ohai Railway Board Act, 1932	By repealing subsection (2) of section 10	
1926, No. 31— The Peel Forest Act, 1926	By omitting from subsection (1) of section 5 all words after the word "provided"	
1908, No. 154— The Public Contracts and Local Bodies' Contractors Act, 1908	By omitting from the Title the words "and restraining the Members of Local Bodies from contracting with such Bodies"	Vol. VI, p. 1,000.
	By omitting from section 1 the words "and Local Bodies' Contractors" in the Short Title	Ibid., p. 1,000.
	By omitting from section 2 the definition of the term "Local body"	Ibid., p. 1,000.
	By repealing sections 8 and 9	Ibid., p. 1,002.
1928, No. 36— The Public Reserves, Domains, and National Parks Act, 1928	By omitting from section 73 the words "and any Board so constituted shall be deemed to be a local body within the meaning of the Public Contracts and Local Bodies' Contractors Act, 1908"	

Name of Act.	Extent of Amendments.	References to Reprint of Statutes.
1928, No. 8— The Rabbit Nuisance Act, 1928	By repealing paragraph (<i>f</i>) of subsection (1) of section 54	Vol. I, p. 263.
1908, No. 165— The River Boards Act, 1908	By repealing paragraph (<i>e</i>) of section 29	Vol. IV, p. 523.
1908, No. 166— The Road Boards Act, 1908	By repealing paragraph (<i>e</i>) of section 30 By repealing paragraph (<i>b</i>) of subsection (1) of section 31	Vol. V, p. 294. Ibid., p. 294.
1908, No. 195— The Town Boards Act, 1908	By omitting from subsection (1) of section 22 the words "or becomes interested either solely or jointly with any other person in any contract with the Board, otherwise than as a member of any incorporated or registered company or of any body corporate"	Ibid., p. 339.