

## New Zealand.



### ANALYSIS.

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1927, No. 22.

AN ACT to amend the Counties Act, 1920.

[21st October, 1927.]

Title.

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 Counties Amendment Act, 1927, and shall be read together with and deemed part of the Counties Act, 1920 (hereinafter referred to as the principal Act). Short Title.

2. Section four of the principal Act is hereby amended by omitting from paragraph (b) the words “the statutory declaration of some person or persons residing in the county,” and substituting the words “statutory declaration.” Section 4 of principal Act amended.

3. With respect to petitions presented after the first day of January, nineteen hundred and twenty-eight, to the Governor-General or to a Council under the principal 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 either by the Governor-General or the Council unless it is received by the Minister of Internal Affairs 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 said Minister or by the Council, as the case may be, and any act purporting to withdraw any such signature shall be null and void.

Section 30 of principal Act amended.

4. Section thirty of the principal Act is hereby amended by omitting the words "less than two-fifths," and substituting the words "less than one-half."

Section 62 of principal Act amended.

5. (1) Subsection one of section sixty-two of the principal Act is hereby amended by repealing paragraph (h), and substituting the following paragraph:—

"(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 a Councillor of any county by virtue of his being concerned or interested in any contract made before his election if his obligation thereunder has been performed before such election; 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 Councillor in the same financial year in respect of any contract or contracts."

(2) Subsection one of section four of the Counties Amendment Act, 1921-22, is hereby consequentially repealed.

Consequential repeal.

Travelling-allowances.

6. (1) The Council may make to each of its members a travelling-allowance, not exceeding such rate as may be prescribed in that behalf by the Governor-General in Council, to cover all charges in respect of his attendance at any meeting of the Council or of any committee thereof, or in respect of his attending to any business of the Council when authorized so to do by the Council.

(2) A Councillor or Chairman voting upon any such question shall not thereby become liable to any penalty under section eighty-two of the principal Act.

(3) This section is in substitution for section eighty-three of the principal Act, and that section and section six of the Counties Amendment Act, 1921-22, are hereby accordingly repealed. Repeal.

(4) This section shall come into operation on the first day of January, nineteen hundred and twenty-eight.

7. Section one hundred and ten of the principal Act is hereby repealed. Repeal.

8. Subsection one of section one hundred and twelve of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:—

“(d) They shall come into force on a day to be fixed at the meeting last aforesaid, which day shall not be earlier than seven clear days after the date of such meeting.”

9. (1) In addition to the powers to make by-laws conferred by the principal Act, or any other Act, a Council may make by-laws— Section 112 of principal Act amended.

(a) Preventing danger from fire, and requiring owners of buildings to provide such fire-escapes as shall be deemed necessary: Cf. 1920, No. 48, s. 359 (1) (d)

(b) Regulating or licensing the keeping within the county of any animals, reptiles, or birds, and prohibiting the keeping thereof if the existence or keeping thereof within the county is, or in the opinion of the Council is likely to become, a nuisance. Any such by-law may apply in respect of animals, reptiles, or birds within the county at the time of the making of such by-law.

(2) A Council may also make by-laws—

(a) For the regulation and control of hoardings and similar structures used or intended to be used for the purpose of advertising: Extending power of Councils to make by-laws.

(b) For regulating, restricting, or prohibiting the exhibition of advertisements in such places and in such manner or by such means as to affect injuriously the amenities of any public place used by the public for purposes of recreation or enjoyment, or to disfigure or injuriously affect the natural beauty of a landscape or the view of rural scenery from any public place: Ibid., s. 354 (28) (39)

Provided that a Council in making any by-laws under this subsection shall provide for the exemption from the restrictive provisions thereof for such period, not being less than five years from the commencement of the by-laws, as the Council thinks fit, of any hoardings and similar structures then in use for advertising purposes, and of any advertisements then being exhibited.

10. Subsection two of section one hundred and twenty-three of the principal Act is hereby amended by omitting the words “Such charge shall be recoverable in the same manner as if it were a rate,” and substituting the words “Such charge shall for all purposes be deemed to be a separate rate.” Section 123 of principal Act amended.

11. Section one hundred and eighty-three of the principal Act is hereby amended by adding the following subsection as subsection three thereof:— Section 183 of principal Act amended.

“(3) Any separate rate made and levied by the Council for the purpose of providing for any payment in respect of such service may be

made and levied on the value of the buildings in the area over which such rate is made and levied, exclusive of the value of the sites on which such buildings are erected.”

Empowering  
Councils to provide  
recreation-grounds  
and public halls.  
Cf. 1920, No. 48,  
s. 302

12. (1) A Council may—

- (a) Purchase, acquire, or otherwise provide land and buildings within the county to be used for any purpose of enjoyment, recreation, instruction, or convenience of the public :
- (b) Lay out, improve, and plant any such land :
- (c) Furnish any such building in such manner as it thinks fit :
- (d) Fix reasonable charges to be paid to the County Fund for the use of any such land or buildings.

(2) The acquisition of land and the erection of buildings for the purposes of this section shall each be deemed to be a public work within the meaning of the Public Works Act, 1908, but no Native land shall be taken under that Act without the consent of the Native Minister.

Authorizing Councils  
to contribute  
towards construction  
of wharves.

13. A Council may contribute such sums as it thinks fit towards the cost of the construction, reconstruction, or extension by a Harbour Board or other competent authority of any wharf or other harbour-works, whether situated within the boundaries of the county or not, which in the opinion of the Council will be of service to the inhabitants of the county, and for that purpose may raise a special loan under the Local Bodies' Loans Act, 1926, as if for a public work.

Notice to be given  
to Council of  
proposed actions.  
Ibid., s. 353

14. (1) No action or proceeding shall lie against the Corporation or Council, or any member or officer of the Council or of any committee appointed by the Council, or other person acting under the authority or in the execution or intended execution or in pursuance of this Act, for any alleged irregularity, or trespass, or nuisance, or negligence, or any act or omission whatever, unless notice in writing specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his solicitor or agent in the matter, is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding.

(2) Every such action or proceeding shall be commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within three months next after the doing of such damage has ceased, and not afterwards.

(3) Every such action or proceeding shall be laid and tried in the place where the cause of action or a material part thereof arose, and not elsewhere.

(4) In any such action or proceeding the defendant may plead generally that the act or thing complained of was done or omitted under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence.

(5) On the trial or hearing of any such action or proceeding the plaintiff or prosecutor shall not be permitted to go into evidence of any cause or ground thereof not stated in this notice.

(6) The plaintiff in any such action shall not succeed if tender of sufficient amends is made by the defendant within one month after the giving of the notice of action ; and in case no tender has been made the defendant may, in accordance with the practice of

the Court in which the action is brought, or by leave of the Court, at any time pay into the Court such sum of money as he thinks fit; whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action.

(7) In cases of injury to the person the person injured shall permit himself to be examined by any medical practitioner appointed by the Council, and in every case the property injured, and all accounts and vouchers in respect of the injury (whether to person or property), may be examined by any person appointed by the Council or the Chairman thereof.

(8) In cases of injury to the person (whether resulting in death or not) the Court may, before or at the trial or hearing, waive the non-compliance or insufficient compliance with subsections one and two hereof if satisfied that there was reasonable excuse, and on such terms as the Court thinks fit.

15. Subsection three of section seven of the Counties Amendment Act, 1925, is hereby amended by adding the words "and not exceeding such amount as the Audit Office approves in any other case." Section 7 of Amendment Act, 1925, amended.

16. The principal Act is hereby further amended in the manner and to the extent set out in the Schedule hereto. Miscellaneous amendments of principal Act.

SCHEDULE.

Schedule.

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT.

Section of Act.	Extent of Amendment.
Section 154 ..	By inserting in subsection two, after the word "situated," the words "or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven hereof."
Section 183 ..	By inserting in subsection two, after the word "ridings," the words "or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven hereof."
Section 196 ..	By inserting in subsection two, after the word "maintained," the words "or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven hereof."
Section 197 ..	By inserting in subsection two, after the word "done," the words "or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven hereof."
Section 198 ..	By inserting in subsection two, after the word "ridings," the words "or any appropriate separate account or accounts kept pursuant to paragraph (b) of subsection two of section one hundred and thirty-seven hereof."