

# **Local Government (Pecuniary Interests Register) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to improve transparency and strengthen public trust and confidence in decision-making of local authorities. The Bill will better align transparency requirements of members of local authorities with members of Parliament and the Executive Council.

The Bill requires local authorities to maintain and publish a register of pecuniary and other specified interests for members of local authorities, such as directorships, business interests, employment, or property. It also requires members of local authorities to disclose gifts and payments they receive. Members are required to make pecuniary interest returns annually. The Bill creates an offence for members who fail to meet their responsibilities outlined in the Bill.

Currently, the information collected and publication of members' interests for the purposes of managing conflicts of interest is inconsistent across local authorities. While some authorities have registers which collect information required by this Bill and make them available to members of the public, the vast majority of local authorities do not.

This Bill will provide greater transparency of interests of members of local authorities, improve public trust and confidence, and contribute to more robust decision-making by local authorities.

### **Clause by clause analysis**

*Clause 1* is the title clause.

*Clause 2* is the commencement clause. It provides that this Bill comes into force on the day after the date on which it receives Royal assent.

*Clause 3* provides that this Bill amends the Local Government Act 2002 (the **principal Act**).

*Clause 4* inserts *new sections 42A to 42F* into the principal Act, to provide for the establishment of a register of pecuniary and other specified interests (which must be publicly available), including requiring members of local authorities to submit pecuniary interest returns containing the information required by *new sections 42C and 42D*.

*Clause 5* amends section 5 of the principal Act to insert definitions for the purpose of this Bill.

*Clause 6* amends section 235 of the principal Act to make it an offence for a member not to submit a pecuniary interest return.

*Clause 7* makes a consequential amendment to the Privacy Act 1993 to recognise the register as a public register for the purposes of that Act.

*Tangi Utikere*

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*Register of pecuniary and other specified interests of  
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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Local Government (Pecuniary Interests Register) Amendment Act **2021**.

**2 Commencement**

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This Act comes into force on the day that is 6 months after the date on which it receives Royal assent.

**3 Principal Act**

This Act amends the Local Government Act 2002 (the **principal Act**).

**Part 1**

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**Register of pecuniary and other specified interests of members****4 New sections 42A to 42F and cross-heading inserted**

After section 42, insert:

*Register of pecuniary and other specified interests of members***42A Register of pecuniary and other specified interests**

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(1) A local authority must maintain a register for members of the local authority to disclose their pecuniary and other specified interests.

(2) The register must—

- (a) comprise the pecuniary interest returns transmitted by members of a local authority under **section 42B**; and
- (b) contain all information in any pecuniary interest return that is required to be disclosed by **section 42C** and **42D**; and
- (c) be made publicly available.

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**42B Members to make pecuniary interest returns**

(1) A member of a local authority must make a pecuniary interest return containing the information specified in **sections 42C** and **42D** in respect of the 12-month period that ended on the day that is 1 month before the date specified for the return in **subsection (2)**.

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(2) A member of a local authority must make a pecuniary interest return by the following dates:

- (a) the day that is 90 days after the date the member's declaration required by clause 14 of Schedule 7 is attested under that clause;
- (b) the last day of February in each year.

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<b>42C Contents of pecuniary interest return relating to member's position</b>	
(1) Every pecuniary interest return must contain the following information:	
(a) the name of each company of which the member of a local authority is a director or holds or controls more than 5% of the voting rights and a description of the main business activities of each of those companies:	5
(b) name of every other company or business entity in which the member of a local authority has a pecuniary interest and a description of the main business activities of each of those companies or business entities:	
(c) if the member of a local authority is employed, the name of each employer of the member and a description of the main business activities of each of those employers:	10
(d) the name of each trust in which the member of a local authority has a beneficial interest:	
(e) if the member of a local authority has an interest in an organisation or trust that receives funding from that local authority, or has applied to receive funding from that local authority, the name of that organisation or trust and a description of the main activities of that organisation or trust:	15
(f) the title and description of any organisation in which the member of a local authority holds an appointment by virtue of being an elected member:	20
(g) the location of real property in which the member of a local authority has a legal interest, other than an interest as a trustee, and a description of the nature of the real property.	
(2) For the purposes of <b>subsection (1)(b)</b> , a member of a local authority does not have a pecuniary interest in a company or business entity ( <b>entity A</b> ) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.	25
(3) For the purposes of this section,—	
<b>business entity</b> means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor, but does not include any blind trust	30
<b>company</b> has the same meaning as in section 2(1) of the Companies Act; and includes—	35
(a) a body corporate that is incorporated outside of New Zealand:	
(b) a society incorporated under the Industrial and Provident Societies Act 1908 or any former Industrial and Provident Societies Act	
<b>employed</b> —	
(a) means employed under a contract of service; but	40

(b)	does not include holding the position of an elected member of a local authority or any other position for which the person in question would not be qualified unless he or she had been elected a member of a local authority.	
<b>42D</b>	<b>Contents of pecuniary interest return relating to member's activities</b>	5
(1)	Every pecuniary interest return must also contain the following information:	
(a)	for each country (other than New Zealand) that the member of a local authority travelled to,—	
(i)	the name of the country; and	
(ii)	the purpose of travelling to the country; and	10
(iii)	the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country; and	
(iv)	the name of each person who contributed (in whole or part) to the accommodation costs incurred by the member while in the country:	15
(b)	a description of each gift (including hospitality and donations in cash or kind but excluding any donation made to cover expenses in an electoral campaign) received by the member of a local authority that has an estimated market value in New Zealand of more than \$500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member):	20
(c)	a description of each payment received by the member of a local authority for activities in which the member is involved other than—	
(i)	the salary or allowances paid to that person under the Remuneration Authority Act 1977 or the Local Government Act 2002; and	25
(ii)	any payment made in respect of any activity in which the member concluded their involvement prior to becoming a member.	
(2)	The information referred to in <b>subsection (1)(a)</b> does not have to be included in the pecuniary interest return if the travel costs or accommodation costs (as the case may be) were paid in full by the following or any combination of the following:	30
(a)	the member:	
(b)	a member of the member's family.	
<b>42E</b>	<b>Registrar</b>	
(1)	A local authority must appoint a Registrar to—	35
(a)	compile and maintain the register of pecuniary and other specified interests of members; and	

- (b) provide advice and guidance to members of the local authority in connection with their obligations under this Act.
- (2) The chief executive of a local authority may be the Registrar under **subsection (1)**.
- 42F Responsibility of members** 5
- (1) It is the responsibility of each member of a local authority to ensure that they fulfil the obligations imposed on members under this Act.
- (2) A Registrar is not required to—
- (a) notify any member of a local authority of that member’s failure to transmit a pecuniary interest return by the due date or of any error or omission in that member’s pecuniary interest return; or 10
- (b) obtain any pecuniary interest return for a member of a local authority.

## Part 2 Other amendments

- 5 Section 5 amended (Interpretation)** 15
- In section 5(1), in their appropriate alphabetical order, insert:
- pecuniary interest**, in relation to a member, means a matter or activity of financial benefit to the member that is required to be declared under **section 42C**
- pecuniary interest return** means the return required to be made by a member of a local authority on their pecuniary and other specified interests under **section 42B** 20
- 6 Section 235 amended (Offences by members of local authorities and local boards)**
- (1) In section 235(1), after “contravenes”, insert “**section 42B**, or” 25
- (2) In section 235(2), after “instituted under”, insert “**section 42B**, or”
- 7 Consequential amendments to Privacy Act 1993**
- (1) This section amends the Privacy Act 1993.
- (2) In Part 1 of Schedule 2, after the item relating to the Local Electoral Act 2001, insert: 30

**Local Government Act 2002**

**s 42A**