



ANALYSIS

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1962, No. 9—*Local*

An Act to empower the Masterton Borough Council to establish a Staff Retiring Fund, to appropriate money from its General Account for that purpose, to make payments therefrom to certain employees, and to validate the payment of money already made to such Fund and the payments made therefrom
[26 October 1962]

WHEREAS in the year ended on the thirty-first day of March, nineteen hundred and fifty-five, the Masterton Borough Council established a special fund known as the Masterton Borough Council Staff Retiring Fund with the intention of accumulating therein sufficient money to make payments therefrom to certain of its employees pursuant to section 6 of the Finance Act (No. 2) 1941: And whereas in the year ended on the thirty-first day of March, nineteen hundred and fifty-five, and in each subsequent year the Council has appropriated and paid from its General Account certain money into the said Staff Retiring Fund, and has in

certain years made payments from such Fund to certain persons retiring from the service of the Council: And whereas doubts have arisen as to the validity of such appropriations and payments, and it is desirable to validate the same: And whereas the Council wishes to continue the Fund on the terms hereinafter appearing, and it is desirable that the Council should be authorised to do so:

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

1. Short Title—This Act may be cited as the Masterton Borough Council Staff Retiring Fund Act 1962.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Council” means the Masterton Borough Council; and includes the body corporate known as the Mayor, Councillors, and Citizens of the Borough of Masterton:

“Employee” means a person—

(a) Who was on the first day of September, nineteen hundred and fifty-four, in the permanent employment of the Council; and

(b) Who has remained continuously in such employment from that date until the thirty-first day of March, nineteen hundred and sixty-two; and

(c) Who is not a contributory to the Council’s National Provident Fund Superannuation Scheme; and

(d) Whose total length of service with the Council, whether before or after the passing of this Act, has been not less than ten years:

“Fund” means the Staff Retiring Fund of the Council established under section 3 of this Act.

3. Staff Retiring Fund—(1) The Council is hereby authorised, and shall be deemed always to have been authorised, to establish a trust fund to be called the Staff Retiring Fund.

(2) The Fund shall consist of—

(a) The money heretofore paid into the Fund, the payment of which is by section 4 of this Act declared to have been validly made:

- (b) Interest which has heretofore accrued and shall from time to time hereafter accrue from the investment of money in the Fund:
- (c) The money from time to time hereafter paid into the fund by the Council as hereinafter provided.

4. Validation of past payments to the Fund—The payments made to the Fund by the Council from its General Account and specified in the First Schedule to this Act are hereby validated and declared to have been lawfully made.

5. Validation of past payments from the Fund—The payments made by the Council from the Fund and specified in the Second Schedule to this Act are hereby validated and declared to have been lawfully made.

6. Investment of the Fund—All money belonging to the Fund and available for investment shall be invested by the Council in the following manner:

- (a) In New Zealand Government securities; or
- (b) On deposit in a National Savings Investment Account under the National Savings Act 1940; or
- (c) On deposit in any bank lawfully carrying on the business of banking in New Zealand, or in the Post Office Savings Bank; or
- (d) In the Common Fund of the Public Trust Office; or
- (e) In the debentures or stock of any local authority within the meaning of the Local Authorities Loans Act 1956 that are authorised investments for the investment of trust funds under the provisions of section 4 of the Trustee Act 1956; or
- (f) In the National Provident Fund pursuant to section 3B of the National Provident Fund Act 1950.

7. Cost of administering the Fund—Any costs or expenses incurred in administering the Fund shall be paid by the Council out of its General Account.

8. Payments into the Fund—The Council may from time to time appropriate from its General Account, and pay into the Fund, such sum or sums of money as the Council shall think fit:

Provided that such sum or sums shall not in any one year exceed in the aggregate one thousand pounds:

Provided also that the Council shall not make any such payment which, when added to the money then in the Fund, would make the total money in the Fund exceed six thousand five hundred pounds.

9. Payments to employees or their dependants—(1) On the retirement from the service of the Council of any employee to whom this Act applies, the Council may pay to him by way of gratuity an amount from the Fund not exceeding an amount equal to six months' pay at the rate payable to him at the time of his retirement.

(2) On the death of any such employee (whether before or after his retirement, but before he has received a gratuity under subsection (1) of this section) the Council may pay to his dependants or any of them by way of gratuity an amount from the Fund not exceeding an amount equal to six months' pay at the rate payable to him at the time of his retirement or (if he died before retirement) at the time of his death.

10. Act not to affect Council's authority otherwise—Nothing in this Act shall be deemed to prevent the Council from making any payment from its General Account which it is authorised to make pursuant to section 6 of the Finance Act (No. 2) 1941:

Provided that if the Council makes any payment to an employee pursuant to this Act it shall not make any additional payment to that employee pursuant to the said section 6, and if the Council makes any payment to an employee pursuant to the said section 6 it shall not make any additional payment to that employee pursuant to this Act.

11. Payments to employees or their dependants not to affect independent liability—No payment made to an employee or his dependants under section 9 of this Act shall affect or in any way derogate from any right which such employee or his dependants may have to claim from the Council compensation under the Workers' Compensation Act 1956 or damages at common law, and the amount of any such payment shall not be taken into account in assessing compensation or damages.

12. Act not to confer right on employees or their dependants to claim gratuity—Nothing in this Act shall be deemed to confer on any employee or his dependants any right to

claim from the Council any compensation, gratuity, damages, or other money on the retirement or death of such employee.

13. Winding-up of the Fund—Not later than six months after the retirement from the service of the Council or the death (if he died before retirement) of the last employee to whom the Council may make a payment from the Fund pursuant to section 9 of this Act, the Council shall pay any money then in the Fund into the General Account of the Council.

14. Offences—(1) If the Council at any time—

- (a) Makes any payment into the Fund otherwise than in accordance with section 8 of this Act; or
- (b) Makes any payment from the Fund in excess of or otherwise than in accordance with the provisions of this Act in that behalf,—

every member of the Council who consents thereto commits an offence, and is liable on summary conviction to a fine not exceeding one hundred pounds.

(2) The Audit Office shall, if it considers that the circumstances warrant it, institute the necessary proceedings against any member liable to any such penalty.

(3) All costs incurred by the Audit Office in any such proceedings shall be paid by the Council out of its General Account; and, subject to the provisions of section 109 of the Public Revenues Act 1953 (as substituted by section 3 of the Public Revenues Amendment Act 1958), all money recovered for fines and costs shall be deemed to be part of the General Account of the Council, and shall be paid into the General Account accordingly.

SCHEDULES

Section 4

FIRST SCHEDULE

PAYMENTS TO THE FUND DECLARED TO HAVE BEEN LAWFULLY MADE

Payment Made During the Year Ended the 31st day of March	Amount of Payment
	£
1955	2,000
1956	1,000
1957	1,000
1958	1,000
1959	1,000
1960	1,000
1961	1,000

Section 5

SECOND SCHEDULE

PAYMENTS FROM THE FUND DECLARED TO HAVE BEEN LAWFULLY MADE

Date of Payment	Amount of Payment
	£ s. d.
26 November 1954	181 16 0
29 April 1955	256 8 6
1 September 1957	1,540 0 0
7 August 1958	473 0 0
23 November 1961	367 5 0
20 June 1962	327 16 4