

LOCAL AUTHORITIES (MEMBERS' INTERESTS) AMENDMENT BILL

EXPLANATORY NOTE

Clause 3: The effect of these amendments is that a member of a local authority will not be disqualified by reason of any contract entered into with a company on the ground that he or his spouse is a branch manager of the company or of a company controlling the company with which the contract is made.

Clause 4: The effect of the new paragraph (aa) of section 3 (3) of the principal Act is that a member will not be disqualified by reason of a contract made with a local authority if the contract is made under delegated authority by an employee or committee of the local authority (unless the member of the local authority is a member of that committee), if verification in writing is given to the Audit Office, by such one or more person and in such manner as that Office requires, that the member did not know and had no reasonable opportunity of knowing of that contract at the time it was made.

Clause 5: The effect of these amendments is that a member will not be deemed to have a pecuniary interest in a contract made by a local authority with a company solely on the ground that the member or his spouse is a branch manager of the company or of a company controlling the company with which the contract was made.

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 2 September 1971.

Words struck out by the Committee are shown in italics within bold round brackets; or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Seath

**LOCAL AUTHORITIES (MEMBERS' INTERESTS)
AMENDMENT**

ANALYSIS

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A BILL INTITULED

An Act to amend the Local Authorities (Members' Interests) Act 1968

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

10 **1. Short Title**—This Act may be cited as the Local Authorities (Members' Interests) Amendment Act 1971, and shall be read together with and deemed part of the Local Authorities (Members' Interests) Act 1968* (hereinafter referred to as the principal Act).

*1968, No. 147
Amendment: 1969, No. 90

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2. Amount of disqualifying contract—Section 3 of the principal Act is hereby amended—

- (a) By omitting from subsection (1) the words “one thousand dollars”, and substituting the expression “\$2,000”: 5
- (b) By omitting from subsection (1) the words “two thousand dollars”, and substituting the expression “\$4,000”.

3. When member concerned or interested in contract—Section 3 of the principal Act is hereby further amended by 10
repealing subsection (2), and substituting the following sub-sections:

“(2) For the purposes of subsection (1) of this section, a member of a local authority or of a committee thereof shall be deemed to be concerned or interested in a contract made 15
by a local authority with an incorporated company, if—

“(a) The member or his spouse singly or between them own, whether directly or through a nominee, 10 percent or more of the issued capital of the company or of any other company controlling that 20
company; or

“(b) The member or his spouse is a member of the company, and either of them is the managing director or the general manager (*or a branch manager*) (by whatever names they are called) of the com- 25
pany; or

“(c) The member or his spouse is a member of a company controlling the company with which the contract is made and either of them is the managing director or the general manager (*or a branch manager*) 30
(by whatever names they are called) of that controlling company:

“Provided that nothing in this subsection shall apply with respect to the spouse of any member where, at the time when the contract was entered into,— 35

“(i) The member and his spouse were living apart; or

“(ii) In any case to which paragraph (a) of this subsection applies, the member did not know and had no reasonable opportunity of knowing that his spouse owned any part of the issued capital of the com- 40
pany or of any company controlling that company;
or

5 “(iii) In any case to which paragraph (b) or paragraph (c) of this subsection applies, the member did not know and had no reasonable opportunity of knowing that his spouse was a member of the company or of the controlling company, as the case may be, or held any of the offices specified in either of those paragraphs.

10 “(2A) For the purposes of subsection (1) of this section, a member of a local authority or of a committee thereof shall be deemed to be concerned or interested in a contract made by the local authority in which his spouse is concerned or interested (not being a contract made with an incorporated company):

15 “Provided that nothing in this subsection shall apply with respect to the spouse of any member where, at the time when the contract was entered into,—

“ (a) The member and his spouse were living apart; or

20 “ (b) The member did not know and had no reasonable opportunity of knowing that his spouse was concerned or interested in the contract.”

Struck Out

4. Member not disqualified in certain cases—Section 3 of the principal Act is hereby further amended by adding to subsection (3) the following paragraph:

25 *New*

4. Member not disqualified in certain cases—(1) Section 3 of the principal Act is hereby further amended by inserting in subsection (3), after paragraph (a), the following paragraph:

30 “(aa) No person shall be disqualified under this section by virtue of his being concerned or interested in any contract made on behalf of the local authority by an employee or committee of the local authority (unless the member of the local authority is a member of that committee) acting under delegated authority, where it is verified in writing to the Audit Office, by such one or more persons and in such manner as the Audit Office requires, that the member did not know and had no reasonable opportunity of knowing of that contract at the time it was made:”.

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40 (2) Section 3 of the principal Act is hereby further amended by adding to subsection (3) the following paragraph:

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“(j) No person who is a member of a county borough council or a county town committee shall be disqualified under this section by virtue of his being or his spouse being concerned or interested in any contract made by a county council, where— 5

“(i) The contract, except for any preliminary work associated with it, is to be performed wholly outside the area under the jurisdiction of the county borough council or the county town committee of which that person is a member; and 10

“(ii) The contract is one in which the county borough council or the county town committee, as the case may be, has no jurisdiction or control or which has not been reported on to the county council by the county borough council or the county town committee, as the case may be; and 15

“(iii) Neither that person nor his spouse is also a member of the county council which made the contract:

“Provided that nothing in subparagraph (iii) of this paragraph shall apply with respect to the spouse of the member where, at the time when the contract was entered into, the member and his spouse were living apart.” 20

5. Member of local authority or committee not to discuss or vote on question in which he has pecuniary interest—
Section 6 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) For the purposes of subsection (1) of this section, where an incorporated company has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof, a member of the local authority or, as the case may be, of the committee shall be deemed to have a pecuniary interest in the matter, if— 30

“(a) The member or his spouse singly or between them own, whether directly or through a nominee, 10 percent or more of the issued capital of the company or of any other company controlling that company; or 35

“(b) The member or his spouse is a member of the company, and either of them is the managing director or the general manager (*or a branch manager*) (by whatever names they are called) of the company; or 40
or

5 “(c) The member or his spouse is a member of a company controlling the company having a pecuniary interest in the matter before the governing body of the local authority or, as the case may be, before the committee, and either the member or his spouse is the managing director or the general manager (*or a branch manager*) (by whatever names they are called) of that controlling company.

10 “(2A) Where the spouse of a member of a local authority or of any committee thereof has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof as the owner or one of the owners (otherwise than as a member of an incorporated company) of an estate or interest in any real
15 or personal property or of any business or as a party to any contract or proposed contract with the local authority, the member shall, for the purposes of subsection (1) of this section, be deemed to have a pecuniary interest in the matter.

20 “(2B) Nothing in subsection (2) or subsection (2A) of this section shall apply with respect to the spouse of any member where, at the time when the member took part in the discussion of or, as the case may be, voted on the matter before the local authority or committee, the member and his spouse were living apart.”

25 **6. Discussing or voting on question affecting member's salary or allowances**—Section 6 of the principal Act is hereby further amended by inserting in subsection (6), after paragraph (h), the following paragraphs:

30 “(i) Any Fire Board:
“(j) Any Fire Committee:
“(k) Any Fire Brigade Committee—”.