

New Zealand.

## ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;">PART I.</p> <p>3. Local authorities may establish superannuation funds for employees.</p> <p>4. Superannuation funds to be subject to provisions of Part II hereof.</p> <p>5. Special resolution necessary to establish fund.</p> <p>6. Resolutions not to take effect until confirmed by Governor.</p> <p>7. Matters to be specified in resolutions.</p> <p>8. Amendments of resolution to be confirmed by Governor.</p> <p>9. Superannuation funds to be vested in Public Trustee.</p> <p>10. Regulations as to administration of funds.</p> <p>11. Funds to be guaranteed by local authorities establishing the same.</p> <p>12. Moneys payable into fund by local authority to constitute a debt to Public Trustee.</p> <p>13. Annual statement to be submitted to Parliament.</p> <p>14. Triennial examination by actuary.</p> <p>15. Local authorities may agree to establish a united fund.</p> <p>16. Local authority may grant additional retiring-allowance in respect of service prior to commencement of this Act.</p> <p style="text-align: center;">PART II.</p> <p>17. Contributors to become such on giving notice of intention.</p> | <p>18. Rates of contribution.</p> <p>19. Rate of contribution while contributor not in receipt of salary to be determined by local authority.</p> <p>20. Contributions by contributors temporarily out of service of local authority.</p> <p>21. Application of fund.</p> <p>22. Retiring-allowances.</p> <p>23. Retiring-allowances to contributors medically unfit for further duty.</p> <p>24. Provisions as to payment of retiring-allowances to annuitants re-entering service of local authority.</p> <p>25. Contributors on retirement may elect receive refund of contributions.</p> <p>26. Computation of retiring-allowances.</p> <p>27. Retiring-allowances to be paid monthly.</p> <p>28. Refund of contributions to persons voluntarily or compulsorily retiring from service before being entitled to retiring-allowance.</p> <p>29. Provisions applicable on death of male contributor or annuitant.</p> <p>30. Provisions applicable on death of female contributor or annuitant.</p> <p>31. Mode of payment in respect of children under fourteen. Payment in certain cases to Public Trustee on behalf of personal representatives.</p> <p>32. Provisions applicable where local authority pays compensation under Workers' Compensation for Accidents Act.</p> <p>33. Retiring-allowances, &amp;c., not assignable.</p> |
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1908, No. 244.

AN ACT to authorise the Establishment of Superannuation Funds Title.  
for the Benefit of the Employees of Local Authorities.

[10th October, 1908.]

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 Superannuation Act, 1908. Short Title.

## Interpretation.

2. In this Act, unless a contrary intention appears,—
- “Fund” means a superannuation fund established by a local authority under this Act :
- “Annuitant” means a person who is in receipt of a retiring-allowance from any such fund :
- “Contributor” means a contributor to a superannuation fund so established :
- “Length of service” means, with respect to any contributor, the time during which he has continuously been a contributor :
- “Local authority” means a Borough Council, County Council, Town Board, Road Board, Harbour Board, Fire Board, Hospital Board, Charitable Aid Board, Hospital and Charitable Aid Board, tramway company, or any body possessing rating-powers over any district, save that where the context or subject-matter so requires the term means the Corporation of any such local authority as aforesaid :
- “Salary” means the pecuniary remuneration received by a contributor from the local authority to whose fund he contributes, but does not include payments for overtime or allowances :
- “Special resolution” means a resolution passed at a meeting of a local authority and confirmed at a subsequent meeting held not earlier than six clear days after the day on which the resolution was passed.

## PART I.

Local authorities may establish superannuation funds for employees.

Superannuation funds to be subject to provisions of Part II hereof.

Special resolution necessary to establish fund.

Resolutions not to take effect until confirmed by Governor.

Matters to be specified in resolutions.

3. It shall be lawful for any local authority, if it thinks fit, to establish a superannuation fund under the provisions of this Act for the benefit of persons in the service of that local authority.

4. Every fund so established shall be subject to the provisions of Part II of this Act in the same manner as if those provisions constituted a contract between the local authority and the several contributors and other persons entitled to receive benefits from the fund in accordance with those provisions, and all such provisions shall be enforceable accordingly.

5. No local authority shall be competent to establish a fund under this Act except by a special resolution.

6. (1.) No resolution of a local authority establishing a fund shall take effect until and unless the Governor by Order in Council confirms the same, and on such confirmation the resolution of the local authority shall take effect as from a day to be specified in the Order in Council.

(2.) Every such Order in Council purporting to be made under this Act shall be conclusive proof that all conditions precedent to the making thereof have been duly fulfilled, and the validity of the resolution so confirmed shall not be questioned in any Court.

7. The resolution by which a fund is established by a local authority shall specify and determine the following matters:—

- (a.) The classes of employees who shall be entitled to become contributors to the fund, and the conditions on which they may become contributors thereto :
- (b.) The classes of employees (if any) who shall be bound as a condition of their employment to become contributors to the fund :
- (c.) The amount which the local authority undertakes to pay into the fund in each year by way of subsidy, the said amount being calculated as a percentage of the total contributions paid into the fund during that year.

8. The said resolution may at any time and from time to time be amended with respect to any of the matters provided for in accordance with the last preceding section, but no such amendment shall take effect until and unless it is confirmed by the Governor by Order in Council.

Amendments of resolution to be confirmed by Governor.

9. Every fund established under this Act shall be vested in the Public Trustee, who shall invest all moneys belonging to any such fund in manner prescribed by regulations.

Superannuation funds to be vested in Public Trustee.

10. (1.) The Governor may from time to time by Order in Council make regulations consistent with this Act for the administration by local authorities of the funds established by them under this Act.

Regulations as to administration of funds.

(2.) Subject to this Act and to any such regulations, every fund shall be administered by the local authority by which it is established in such manner as that authority thinks fit.

(3.) All expenses incurred by a local authority in establishing or administering any fund under this Act, save the moneys payable out of the fund in accordance with the express provisions of this Act, shall be paid out of the ordinary revenues of the local authority.

11. The solvency of every fund established under this Act shall be deemed to be guaranteed to the contributors and to all persons entitled to receive benefits therefrom by the local authority by which the fund has been established, and the local authority shall from time to time pay into the fund, in addition to the aforesaid subsidy, such sums (if any) as are required to enable the fund to meet all claims then payable out of the fund.

Funds to be guaranteed by local authorities establishing the same.

12. All sums payable into a fund by a local authority, whether by way of subsidy or otherwise, shall constitute a debt due by the local authority to the Public Trustee, and recoverable by action in any Court of competent jurisdiction.

Moneys payable into fund by local authority to constitute a debt to Public Trustee.

13. (1.) Before the first day of April in every year after the establishment of any fund there shall be prepared in the prescribed form by the local authority by which the fund is established a statement of the revenue account of the fund for the year ending on the thirty-first day of December preceding, and of the balance-sheet of the fund at the close of that year, and a statement of membership and of retiring and other allowances at the close of that year.

Annual statement to be submitted to Parliament.

(2.) The said statements, after being audited by the Audit Office, shall, within ten days after the completion of the audit, be sent by the local authority to the Minister of Internal Affairs, who shall within ten days after the receipt thereof lay the same before Par-

liament if then sitting, or if not, then within ten days after the commencement of the next ensuing session.

Triennial examination by actuary.

14. (1.) In the year nineteen hundred and eleven, and in every third year thereafter, an examination of every fund established under this Act shall be made by an actuary appointed by the Governor.

(2.) The actuary shall set forth the result of his examination in a report, which shall be so prepared as to show the state of every such fund at the date of his examination thereof, having regard to the prospective liabilities and assets, and the probable annual sums required by the fund to provide the retiring and other allowances falling due within the ensuing three years without affecting or having recourse to the actuarial reserve appertaining to the contributors' contributions.

(3.) The report of the actuary shall be sent by him to the Minister of Internal Affairs, who shall within ten days after the receipt thereof lay the same before Parliament if then sitting, or if not, then within ten days after the commencement of the next ensuing session.

Local authorities may agree to establish a united fund.

15. (1.) Any two or more local authorities (whether of the same or of different descriptions) may, if they think fit, agree to establish a united superannuation fund under the provisions of this Act for the benefit of persons in the service of any of those local authorities.

(2.) Every such united fund shall be established by separate resolutions passed by each of the local authorities and approved by the Governor in Council in accordance with the foregoing provisions of this Act.

(3.) Every discretionary power which is conferred by Part II of this Act on the local authority by which a fund has been established shall, in the case of a united fund, be vested in a Board consisting of representatives of each of the local authorities by which the fund is established. Every such Board shall be constituted in such manner as the local authorities concerned agree upon from time to time, or in default of any such agreement as the Governor by Order in Council from time to time determines.

(4.) The guarantee provided by section eleven hereof shall, in the case of a united fund, be a joint and several guarantee by all the local authorities by which that fund is established, and the said local authorities shall have as between themselves, in respect of all moneys paid under any such guarantee, a right of contribution in the same proportion as that which the several subsidies payable to the fund by those local authorities bear to one another.

(5.) The proportions in which the local authorities concerned shall pay the expenses of the administration of a united fund so established by them shall be determined from time to time by the aforesaid Board, and in default of any such determination, then by the Governor in Council.

(6.) The amount of subsidy payable by any local authority into a united fund in pursuance of section seven hereof shall be calculated as a percentage of the total contributions paid into the fund in each year by the employees of that local authority only.

(7.) If and as often as it is found by the report of an actuary appointed in this behalf by the Governor that the respective subsidies payable into a united fund by the several local authorities concerned are for any reason disproportionate to each other, the Governor may by Order in Council alter the relative amounts of subsidy so payable, but the aggregate amount so payable by all the local authorities concerned shall not in any case be increased without the consent of all of those local authorities.

16. It shall be lawful for any local authority by which a fund has been established under this Act to grant to any employee who is a contributor to that fund, and who retires from the service of that local authority under such circumstances that he is entitled to a retiring-allowance under this Act, to grant to that employee out of the ordinary revenues of the local authority an additional annual allowance for the rest of his life, or for such shorter period as the local authority thinks fit, and on such conditions as the local authority thinks fit; but no such additional annual allowance shall exceed one-sixtieth part of the employee's annual salary (computed in accordance with section twenty-six hereof) for every year of his service, whether continuous or not, in the employment of that local authority prior to the commencement of this Act.

Local authority may grant additional retiring-allowance in respect of service prior to commencement of this Act.

## PART II.

17. Any qualified person in the service of the local authority may become a contributor to the fund on giving to the local authority a notice in writing of his intention to become a contributor, and he shall become a contributor accordingly on the date on which the notice is so given.

Contributors to become such on giving notice of intention.

18. (1.) The contributions to be made to the fund by a contributor shall be the following percentage of his salary, and shall be deducted from his salary as it becomes payable from time to time, that is to say:—

Rates of contribution.

- (a.) Five per centum if his age does not exceed thirty years at the time when the first contribution becomes payable;
- (b.) Six per centum if his age then exceeds thirty years but does not exceed thirty-five years;
- (c.) Seven per centum if his age then exceeds thirty-five years but does not exceed forty years;
- (d.) Eight per centum if his age then exceeds forty years but does not exceed forty-five years;
- (e.) Nine per centum if his age then exceeds forty-five years but does not exceed fifty years; and
- (f.) Ten per centum if his age then exceeds fifty years.

(2.) The amount so deducted shall forthwith be paid by the local authority to the Public Trustee to the credit of the fund.

(3.) For the purposes of this section a contributor's age shall be deemed to exceed thirty years on and after the thirtieth anniversary of his birth, and the other ages mentioned in this section shall be calculated respectively in the same manner.

19. If the salary of a contributor is for any period temporarily stopped on the ground of ill health, or if for any period a contributor

Rate of contribution while contributor not in

receipt of salary to be determined by local authority.

is on leave of absence without salary, he shall during that period continue to make contributions to the fund in such manner and to such amount (not being greater than the amount contributed by him immediately before the commencement of the said period) as the local authority determines either generally or in the particular case.

Contributions by contributors temporarily out of service of local authority.

20. (1.) If and as often as a contributor is for any period temporarily out of the service of the local authority he may, at any time before he has withdrawn his contributions from the fund, agree with the local authority to remain a contributor to the fund, and to contribute thereto the same amount which he contributed immediately before he so left the service of the local authority, and he shall thereupon be deemed to remain and to have remained a contributor to the fund accordingly for all the purposes of this Act.

(2.) Notwithstanding any such agreement, no person shall for a longer period than three months at any one time remain a contributor to the fund while he is not in the service of the local authority, and so soon as any contributor has for three months continuously been out of the service of the local authority he shall, notwithstanding any such agreement, cease to be a contributor.

Application of fund.

21. The fund shall be held and applied for the benefit of the contributors in the manner and subject to the conditions hereinafter set forth.

Retiring-allowances.

22. (1.) Every male contributor whose length of service is not less than forty years or whose age is not less than sixty-five years, and every female contributor whose length of service is not less than thirty years or whose age is not less than fifty-five years, shall be entitled, on retiring in any manner from the service of the local authority, to receive from the fund an annual retiring-allowance for the rest of his or her life, computed as follows:—

For every year of the contributor's length of service the contributor shall receive one-sixtieth part of his or her annual salary, and for every fraction of a year of that length of service the contributor shall receive a proportionate part of one-sixtieth of that annual salary, but in no case shall the retiring-allowance exceed two-thirds of that salary.

(2.) The local authority may in any particular case or classes of cases extend the provisions of this section to any case in which the age of a male contributor is not less than sixty years or the age of a female contributor is not less than fifty years.

Retiring-allowances to contributors medically unfit for further duty.

23. (1.) Every contributor who, with the consent or by the direction of the local authority, retires from the service of the local authority on the ground of being medically unfit for further duty shall on his retirement be entitled to receive from the fund a retiring-allowance for the rest of his life computed in manner provided by the last preceding section.

(2.) For the purposes of this Act a contributor shall be deemed to be medically unfit for further duty if on the certificate of at least two registered medical practitioners it is established to the satisfaction of the local authority that by reason of mental or bodily infirmity not caused by irregular or intemperate habits the contributor has become permanently unable to perform his duties.

(3.) When a retiring-allowance has been granted under this section, the allowance or any one or more instalments thereof may be forfeited by a resolution of the local authority if the annuitant fails at any time without sufficient justification to submit himself for medical examination when and as often as required by the local authority, or if, being reported by two registered medical practitioners on any such examination to be medically fit to accept any specified employment in the service of the local authority which the local authority considers suitable for him, the annuitant fails to do so when required by the local authority; but this subsection shall not apply to any male annuitant after he has attained the age of sixty-five years, or to any female annuitant after she has attained the age of fifty-five years.

(4.) An annuitant may appeal to a Magistrate in manner prescribed by regulations from any decision of the local authority under this section as to the suitability of any employment.

24. When an annuitant re-enters the service of the local authority, no more of his retiring-allowance shall be paid than is equivalent, when added to the remuneration received for his service in any one year, to his annual salary at the date of his retirement from his former service.

Provisions as to payment of retiring-allowances to annuitants re-entering service of local authority.

25. A contributor may, on his retirement from the service of the local authority under circumstances entitling him to a retiring-allowance, elect, at any time before accepting the first instalment of his retiring-allowance, to accept a sum equal to the total amount of his contributions to the fund in lieu of his retiring-allowance, in which case he shall be entitled to receive that sum accordingly, but no further sum shall be payable out of the fund in the event of his death.

Contributors on retirement may elect to receive refund of contributions.

26. For the purpose of computing the retiring-allowance to be granted to a contributor his salary shall be deemed to be the average rate of his salary while in receipt of salary during the period of three years immediately preceding his retirement.

Computation of retiring-allowances.

27. A retiring-allowance shall be paid by equal monthly instalments, the first instalment being payable one month after the date of the contributor's retirement.

Retiring-allowances to be paid monthly.

28. If before a contributor becomes entitled to a retiring-allowance he retires from the service of the local authority, whether voluntarily or otherwise, he shall be entitled to a refund of the whole amount contributed by him to the fund, but without interest.

Refund of contributions to persons voluntarily or compulsorily retiring from service before being entitled to retiring-allowance.

29. If any male contributor or annuitant dies, the following provisions shall apply:—

Provisions applicable on death of male contributor or annuitant.

(a.) If he leaves a wife surviving him, there shall be paid out of the fund to the widow at her election either—

(i.) An annuity of eighteen pounds during her widowhood; or

(ii.) The amount of the contributions made by the deceased to the fund, less any sums received by him from the fund in his lifetime.

(b.) Any such election by the widow shall be final, and shall be deemed to be made when the first payment from the fund is received and accepted by her.

- (c.) If the deceased leaves a child or children under the age of fourteen years, there shall be paid out of the fund to or on behalf of each such child the sum of five shillings a week until that child attains the age of fourteen years.
- (d.) If the deceased leaves no widow, the amount of his contributions to the fund, less any sums which he has received out of the fund in his lifetime, and less any sums which have been paid or may become payable in the future to or on behalf of any child or children under the age of fourteen years under the foregoing provisions, shall be paid to the personal representatives of the deceased in trust for the persons entitled thereto under his will, or, in case of intestacy, for the next-of-kin or other persons entitled to his estate under the law relating to the distribution of intestate estates.

Provisions applicable on death of female contributor or annuitant.

30. When any female contributor or annuitant dies, the following provisions shall apply:—

- (a.) If she leaves a child or children under the age of fourteen years, there shall be paid out of the fund to or on behalf of each such child the sum of five shillings a week until that child attains the age of fourteen years.
- (b.) The amount of the contributions of the deceased, less any sums which she has received out of the fund in her lifetime, and less any sums which have been paid or may become payable in the future to or on behalf of any child under the age of fourteen years under the foregoing provisions of this section, shall be paid to her personal representative in trust for the persons entitled thereto under her will, or, in case of her intestacy, for the next-of-kin or other persons entitled to her estate under the law relating to the distribution of intestate estates.

Mode of payment in respect of children under fourteen.

31. (1.) Any moneys payable out of the fund under either of the last two preceding sections to or on behalf of a child under the age of fourteen may, at the discretion of the local authority, be either paid to the child himself or expended by the local authority for the benefit of the child, or paid to the Public Trustee or any other person to be expended on behalf of the child in such manner as the Public Trustee or that other person thinks fit.

Payment in certain cases to Public Trustee on behalf of personal representatives.

(2.) Any moneys payable out of the fund under either of the last two preceding sections to the personal representatives of a deceased contributor or annuitant may, if no grant of probate or of letters of administration is obtained within three months after his death, be paid to the Public Trustee in trust for the persons beneficially entitled thereto under this Act.

Provisions applicable where local authority pays compensation under Workers' Compensation for Accidents Act.

32. When compensation is paid by the local authority under the provisions of the Workers' Compensation for Accidents Act, 1908, or any Act amending or substituted for that Act, in respect of the injury or death of a contributor, the following provisions shall apply:—

- (a.) When compensation is paid to the contributor in respect of an injury by which he has become medically unfit for further duty, all moneys so received by him, whether by



way of a weekly payment or otherwise, shall to the extent thereof be deemed to be received in satisfaction of his retiring-allowance under this Act, and that allowance shall be reduced or postponed accordingly in such manner as the local authority determines.

- (b.) When any such compensation has been received in respect of the death of a contributor by any person entitled under this Act to receive any annuity or periodical payment in consequence of that death, the compensation so received by that person shall to the extent thereof be deemed to be received in satisfaction of the said annuity or periodical payment, and the same shall be reduced or postponed accordingly in such manner as the local authority determines.
- (c.) No such compensation shall take away or affect the right of a contributor or any other person to receive from the fund under the provisions of this Act the amount of the contributions made to the fund by the contributor.

33. In no case shall any retiring-allowance or other moneys granted or payable out of the fund to any person be in any way assigned or charged or pass to any other person by operation of law, nor shall any moneys payable out of the fund on the death of a contributor be assets for the payment of his debts or liabilities.

*Retiring-allowances,  
&c., not assignable.*