



Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001

Public Act 2001 No 98
Date of assent 14 December 2001
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001.
- (2) In this Act, the Local Government Act 1974 is called "the principal Act".

2 Commencement

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

3 Interpretation

Section 101ZZE of the principal Act is amended by repealing the definition of **Appropriate Minister**.

Part 1

Remuneration for local authority positions

4 New sections 101ZZF to 101ZZO substituted

The principal Act is amended by repealing sections 101ZZF to 101ZZV, and substituting the following sections:

“101ZZF Higher Salaries Commission to determine remuneration

“(1) The Higher Salaries Commission must determine the remuneration, allowances, and expenses payable to the following persons:

- “(a) chairpersons of local authorities:
- “(b) deputy chairpersons of local authorities:
- “(c) chairpersons of community boards:
- “(d) chairpersons of committees of local authorities:
- “(e) chairpersons of committees of community boards:
- “(f) members of local authorities:
- “(g) members of community boards.

“(2) The Higher Salaries Commission may do 1 or more of the following things under subsection (1):

- “(a) fix scales of salaries:
- “(b) fix scales of allowances:
- “(c) fix ranges of remuneration:
- “(d) fix different forms of remuneration:
- “(e) prescribe rules for the application of those scales, ranges, or different forms of remuneration:
- “(f) prescribe rules for reimbursing expenses incurred by elected members:
- “(g) differentiate between persons occupying equivalent positions in different local authorities or community boards:

- “(h) differentiate between persons occupying equivalent positions in the same local authorities or community boards:
- “(i) make determinations that apply to individuals, or groups occupying equivalent positions.

“101ZZG **Mandatory criteria for Commission**

- “(1) In determining remuneration under section 101ZZF(1), the Commission must have regard to—
 - “(a) the need to minimise potential for remuneration to distort the behaviour of the persons listed in section 101ZZF(1) in relation to their positions as listed in that subsection; and
 - “(b) the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and
 - “(c) the need to be fair both—
 - “(i) to the persons whose remuneration is being determined; and
 - “(ii) to ratepayers; and
 - “(d) the need to recruit and retain competent persons.
- “(2) The criteria in subsection (1) do not prevent the Commission determining allowances for attending meetings additional to salary.

“101ZZH **Submissions to Commission**

- “(1) Any person or organisation may make a written submission to the Higher Salaries Commission about a determination to be made by the Commission under section 101ZZF.
- “(2) The Higher Salaries Commission may, in its discretion, invite a person or organisation to make an oral submission about a determination to be made by the Commission under section 101ZZF.

“101ZZI **Frequency of adjustments**

To avoid doubt, section 19 of the Higher Salaries Commission Act 1977 applies to determinations made under section 101ZZF.

“101ZZJ Determination is a regulation

A determination by the Higher Salaries Commission under section 101ZZF is a regulation under the Regulations (Disallowance) Act 1989.

“101ZZK Publication of determinations

The Commission must—

- “(a) deliver to the Minister a copy of each determination made by it under section 101ZZF; and
- “(b) publish a determination made under section 101ZZF in the *Gazette* within 14 days of it being delivered to the Minister.

“101ZZL Levy to pay Commission’s costs

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, impose a levy on local authorities in each financial year to pay the costs of the Higher Salaries Commission in the previous financial year in making determinations under section 101ZZF.

“(2) The order—

- “(a) must specify the amount of the levy or the way that the levy must be calculated; and
- “(b) must specify the local authorities or classes of local authority liable to pay the levy; and
- “(c) may impose a levy that is calculated to include the costs of the Commission from 1 July 2001, even though regulations that impose the levy are made after that date; and
- “(d) may authorise—
 - “(i) the deduction of over-recoveries in respect of a financial year from a levy payable in subsequent financial years; or
 - “(ii) the addition of under-recoveries in respect of a financial year to a levy payable in subsequent financial years; and
- “(e) may prescribe how the levy must be paid or collected.

“(3) A local authority must pay a levy required by regulations made under this section.

“(4) The amount of unpaid levy is recoverable in a court of competent jurisdiction as a debt due to the Crown.

“(5) A levy under subsection (1) is a regulation under the Regulations (Disallowance) Act 1989.

“101ZZM **Members and officers of Higher Salaries
Commission to maintain secrecy**

“(1) This section applies to—

“(a) members of the Higher Salaries Commission; and

“(b) persons engaged or employed by the Commission in its work.

“(2) Every person to whom this section applies—

“(a) must keep secret all matters and information that come to the person’s knowledge while performing or exercising his or her functions, duties, or powers under this Act except the personal information specified in subsection (3); and

“(b) must not communicate those matters or information except—

“(i) in performing or exercising those functions, duties, and powers; or

“(ii) under subsection (3).

“(3) The Higher Salaries Commission is required to comply with information privacy principles 6, 7, and 11 of the Privacy Act 1993 and disclose personal information as necessary.

“(4) Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$1,000, or to both, who wilfully contravenes subsection (2).

“101ZZN **Meaning of remuneration**

In sections 101ZZF and 101ZZG, **remuneration** includes—

“(a) salary, wages, and other payments in return for services; and

“(b) monetary and non-monetary benefits and emoluments in return for services.

“101ZZO **Greytown District Trust Lands Trustees**

“(1) For the purpose of this section, the trust board is to be treated as if it were a statutory board.

- “(2) A member of the trust board is entitled to—
- “(a) fees, a salary, or allowances for services as a member; and
 - “(b) travelling allowances or travelling expenses for time spent travelling as a member.
- “(3) The Fees and Travelling Allowances Act 1951 applies to determine the amount of the fees, salary, allowances, or expenses referred to in subsection (2).
- “(4) In subsection (1), the term **statutory board** has the same meaning as in section 2 of the Fees and Travelling Allowances Act 1951.
- “(5) In this section, **trust board** means the Greytown District Trust Lands Trustees constituted by section 3 of the Greytown District Trust Lands Act 1979.”

5 Greytown District Trust Lands Act 1979 amended

Section 14(aa) of the Greytown District Trust Lands Act 1979 is repealed.

6 Schedule 4A amended

Schedule 4A of the principal Act is amended by repealing paragraph (e) of item 2.

Part 2

Local authority trading enterprises

7 New section 594Q substituted

The principal Act is amended by repealing section 594Q, and substituting the following section:

“594Q Principal objective to be successful business

- “(1) The principal objective of a local authority trading enterprise is to operate as a successful business.
- “(2) Operating as a successful business includes—
- “(a) achieving the objectives of its shareholders, both commercial and non-commercial, as specified in the statement of corporate intent; and
 - “(b) being a good employer; and
 - “(c) exhibiting a sense of social and environmental responsibility by having regard to the interests of the community

in which it operates and by endeavouring to accommodate or encourage these when able to do so.

“(3) In subsection (2)(b), **good employer** has the same meaning as in section 119F(2).”

8 Application of Local Government Official Information and Meetings Act 1987

Parts I to VI (official information provisions) of the Local Government Official Information and Meetings Act 1987 apply to local authority trading enterprises as if they were local authorities within paragraph (a) of the definition of **local authority** in section 2(1) of the Local Government Official Information and Meetings Act 1987.

9 Ombudsmen Act 1975 amended

Part III of the First Schedule of the Ombudsmen Act 1975 is amended by inserting, after the item “Licensing Trusts.”, the item “Local authority trading enterprises under Part XXXIVA of the Local Government Act 1974.”

Legislative history

28 November 2000	Introduction (Bill 87-1)
13 December 2000	First reading and referral to Local Government and Environment Committee
22 August 2001	Reported from Local Government and Environment Committee (Bill 87-2)
5 December 2001	Second reading, committee of the whole House (Bill 87-3)
11 December 2001	Third reading
14 December 2001	Royal assent

This Act is administered in the Department of Internal Affairs.
