

## PUBLIC BODIES CONTRACTS BILL

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### EXPLANATORY NOTE

THE purpose of this Bill is to make general provision specifying the manner in which local authorities and other public bodies are to enter into contracts, and to authorise local authorities and other public bodies to delegate power to enter into contracts on their behalf to committees and to their officers.

*Clause 2* defines the public bodies to which the Bill relates. They are City Councils, Borough Councils, County Councils, Town Councils, Road Boards, Harbour Boards, Hospital Boards, Boards of Trustees of separate institutions under Part IV of the Hospitals Act 1957, Electric Power Boards, Drainage Boards, River Boards, Catchment Boards, Water Supply Boards, Urban Fire Authorities, Fire Boards, Metropolitan Milk Boards, District Milk Boards, Rabbit Boards, Railway Boards, Nassella Tussock Boards, Underground Water Authorities, Education Boards, the controlling authorities of secondary schools and combined schools and technical schools, Licensing Trusts, the Auckland Transport Board, the Christchurch Transport Board, the Dunedin Drainage and Sewerage Board, the Auckland Harbour Bridge Authority, the Christchurch-Lyttelton Road Tunnel Authority, and the Waikato Valley Authority. Power is given to apply the Act to other public bodies by Order in Council.

*Clause 3* prescribes the manner in which public bodies are to enter into contracts, and applies generally with some modifications the provisions of section 148 of the Municipal Corporations Act 1954. The most important modifications are that a written contract may be signed by one member or officer of the public body on behalf of the public body, and that oral contracts may be entered into for amounts up to £200. Most of the existing legislation requires the contract to be signed by two members of the public body and limits oral contracts to £20.

*Clause 4* gives general power to public bodies to delegate to their committees and officers power to enter into contracts. In most cases, the present legislation authorising public bodies to delegate powers expressly forbids the delegation of any power to enter into a contract.

A public body may delegate power to enter into a contract by resolution in that behalf. The resolution will require the approval of the Minister of Internal Affairs in any case where it provides for a delegation to enter into a contract for a consideration exceeding a lump sum of £500 or instalments aggregating more than £500 or a contract for payment by instalments for an unspecified period exceeding £25 a week.

*Clause 5* provides for consequential amendments and repeals.

*Hon. Mr Anderton*

## PUBLIC BODIES CONTRACTS

### ANALYSIS

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1. Short Title	contracts
2. Interpretation	5. Amendments and repeals
3. Mode of contracting by public bodies	Schedules

### A BILL INTITULED

#### **An Act to make provision for the making of contracts by local authorities and other public bodies**

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

1. **Short Title**—This Act may be cited as the Public Bodies Contracts Act 1959.

2. **Interpretation**—(1) In this Act, unless the context otherwise  
10 requires, the term “public body” means—

(a) Every local authority or public body of any of the classes for the time being specified in Part I of the First Schedule to this Act:

15 (b) Every local authority or public body for the time being specified in Part II of the First Schedule to this Act.

(2) The Governor-General may from time to time, by Order in Council, amend the First Schedule to this Act by including  
20 therein the name of any class of local authorities or public bodies or the name of any specified local authority or public body.

(3) Where by any Order in Council under subsection two of this section the name of any class of local authority or public body or the name of any specified local authority or public body is added to the First Schedule to this Act, the Act by or pursuant to which that class of local authority or public body or that local authority or public body was constituted shall be read subject to the provisions of this Act. 5

**3. Mode of contracting by public bodies—**(1) Any contract which, if made by private persons, must be by deed shall, if made by a public body, be in writing, and— 10

- (a) If made by a public body which is a body corporate, shall be made under the seal of the public body:
- (b) If made by a public body which is the governing authority of a body corporate, shall be made under the seal of the Corporation: 15
- (c) If made by a public body whose functions are exercised by any other public body which is a body corporate or is the governing authority of a body corporate, shall be made under the seal of that other public body or under the seal of the Corporation, as the case may be. 20

(2) Any contract which, if made by private persons, must be in writing signed by the persons to be charged therewith shall, if made by a public body,—

- (a) Be made in the manner specified in subsection one of this section as in the case of a deed; or 25
- (b) Be signed by any member or officer of the public body on behalf of and by direction of the public body; or
- (c) In any case where the functions of the public body are exercised by any other public body, be signed by any officer of either public body or any member of that other public body, acting in each case on behalf of and by direction of the first-mentioned public body. 30

(3) Any contract which, if made by private persons, may be made orally may be made in the manner specified in subsection one of this section as in the case of a deed, or in the manner specified in subsection two of this section as in the case of a contract required to be in writing, or may be made orally by or on behalf of a public body— 35

- (a) By any member or officer of the public body acting by direction of the public body; or 40

(b) In any case where the functions of the public body are exercised by any other public body, by any officer of either public body or any member of that other public body, acting in each case by direction of the first-mentioned public body,—

5 but no oral contract shall be made for any sum exceeding two hundred pounds.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of a public body shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the public body or to give effect to a resolution of the public body in relation to contracts generally or in relation to that particular contract.

15 **4. Delegation of power to enter into contracts—**(1) A public body may from time to time, by resolution, delegate to any standing or special committee appointed by it and consisting of two or more persons or to any officer or officers of the public body, whether by name or as the holder or holders  
20 for the time being of any specified office or offices, the power of the public body to enter into any specified contract or into contracts of any specified description, subject to the limits as to amount specified in the resolution:

25 Provided that no such resolution shall come into force unless and until it has been approved by the Minister of Internal Affairs, in any case where—

(a) The resolution delegates any power to enter into a lump-sum contract or a contract providing for the payment of instalments for a specified period or a specified number of instalments, and the consideration under the contract exceeds the sum of five hundred pounds or, as the case may be, an aggregate amount exceeding five hundred pounds; or

35 (b) The resolution delegates any power to enter into a contract providing for payment of instalments for an unspecified period at a rate exceeding the sum of twenty-five pounds a week or any amount corresponding to a rate exceeding the sum of twenty-five pounds a week.

40 (2) Any committee or officer or officers to which or to whom any power of entering into a contract is delegated under the provisions of this section may, without confirmation by the public body, exercise that power in like manner and with the same effect as the public body could itself have exercised it.

(3) Any committee or officer or officers entering into any contract pursuant to any delegation under this section shall report the same to the public body at its next meeting.

(4) Every delegation under this section shall be revocable by the public body at will, and no such delegation shall prevent the exercise of any power by the public body. 5

**5. Amendments and repeals—**(1) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) The enactments specified in the Third Schedule to this Act are hereby repealed. 10

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## SCHEDULES

## FIRST SCHEDULE

Section 2

## PUBLIC BODIES TO WHICH THIS ACT APPLIES

*Part I—Classes of Public Bodies*

Class of Public Bodies	Enactment Under Which Constituted
Boards of Trustees of separate institutions under Part IV of the Hospitals Act 1957	1957, No. 40—The Hospitals Act 1957. (1957 Reprint, Vol. 6, p. 119.)
Borough Councils	1954, No. 76—The Municipal Corporations Act 1954.
Catchment Boards	1941, No. 12—The Soil Conservation and Rivers Control Act 1941.
City Councils	1954, No. 76—The Municipal Corporations Act 1954.
Combined school controlling authorities	1924, No. 50—The Education Amendment Act 1924. (1931 Reprint, Vol. 2, p. 1011.)
County Councils	1956, No. 64—The Counties Act 1956. (1957 Reprint, Vol. 3, p. 1.)
District Milk Boards	1944, No. 30—The Milk Act 1944.
Drainage Boards	1908, No. 96—The Land Drainage Act 1908. (1957 Reprint, Vol. 7, p. 471.)
Education Boards	1914, No. 56—The Education Act 1914. (1931 Reprint, Vol. 2, p. 1007.)
Electric Power Boards	1925, No. 38—The Electric Power Boards Act 1925. (1957 Reprint, Vol. 4, p. 441.)
Fire Boards	1949, No. 18—The Fire Services Act 1949. (1957 Reprint, Vol. 5, p. 179.)
Harbour Boards	1950, No. 34—The Harbours Act 1950. (1957 Reprint, Vol. 5, p. 813.)
Hospital Boards	1957, No. 40—The Hospitals Act 1957. (1957 Reprint, Vol. 6, p. 119.)
Licensing Trusts	1949, No. 43—The Licensing Trusts Act 1949.
Metropolitan Milk Boards	1944, No. 30—The Milk Act 1944.
Nassella Tussock Boards	1946, No. 2—The Nassella Tussock Act 1946.
Rabbit Boards	1955, No. 28—The Rabbits Act 1955.
Railway Boards	1914, No. 32—The Local Railways Act 1914. (1931 Reprint, Vol. 7, p. 935.)
River Boards	1908, No. 165—The River Boards Act 1908. (1931 Reprint, Vol. 5, p. 281.)
Road Boards	1956, No. 64—The Counties Act 1956. (1957 Reprint, Vol. 3, p. 1.)

FIRST SCHEDULE—*continued*  
Part I—*Classes of Public Bodies—continued*

Class of Public Bodies	Enactment Under Which Constituted
Secondary schools governing bodies	1914, No. 56—The Education Act 1914 (1931 Reprint, Vol. 2, p. 1007) and, in the case of the secondary schools named in the Ninth Schedule to that Act, the several Acts constituting those schools.
Technical schools governing bodies or Boards of Managers	1914, No. 56—The Education Act 1914. (1931 Reprint, Vol. 2, p. 1007.)
Town Councils .....	1954, No. 76—The Municipal Corporations Act 1954.
Underground Water Authorities	1953, No. 56—The Underground Water Act 1953.
Urban Fire Authorities .....	1949, No. 18—The Fire Services Act 1949. (1957 Reprint, Vol. 5, p. 179.)
Water Supply Boards .....	1908, No. 205—The Water Supply Act 1908. (1931 Reprint, Vol. 8, p. 1093.)

*Part II—Particular Public Bodies*

Name of Public Body	Enactment by Which Constituted
The Auckland Electric Power Board	1921, No. 17 (Local)—The Auckland Electric Power Board Act 1921.
The Auckland Harbour Bridge Authority	1950, No. 101—The Auckland Harbour Bridge Act 1950.
The Auckland Metropolitan Drainage Board	1959, No. (Local)— <u>The Auckland Metropolitan Drainage Act 1959.</u>
The Auckland Transport Board	1928, No. 44—The Auckland Transport Board Act 1928.
The Christchurch Drainage Board	1951, No. 21 (Local)—The Christchurch District Drainage Act 1951.
The Christchurch-Lyttelton Road Tunnel Authority	1956, No. 16—The Christchurch-Lyttelton Road Tunnel Act 1956.
The Christchurch Transport Board	1920, No. 15 (Local)—The Christchurch Tramway District Act 1920.
The Dunedin Drainage and Sewerage Board	1900, No. 25 (Local)—The Dunedin District Drainage and Sewerage Act 1900.
The Hutt Valley Drainage Board	1948, No. 11 (Local)—The Hutt Valley Drainage Act 1948.
The Invercargill Licensing Trust	1950, No. 33—The Invercargill Licensing Trust Act 1950.
The Masterton Licensing Trust	1947, No. 35—The Masterton Licensing Trust Act 1947.
The North Shore Drainage Board	1951, No. 19 (Local)—The North Shore Drainage Act 1951.
The Waikato Valley Authority	1956, No. 104—The Waikato Valley Authority Act 1956.
The Wellington City and Suburban Water Supply Board	1927, No. 24 (Local)—The Wellington City and Suburban Water Supply Act 1927.

SECOND SCHEDULESection 5 (1)

## ENACTMENTS AMENDED

Title of Enactment	Amendment
1902, No. 15 (Local)—The Dunedin District Drainage and Sewerage Act 1900, Amendment Act 1902	<p>By adding to section 7 the following proviso:</p> <p>“Provided that the Board shall not delegate to any committee power to enter into any contract except in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959.”</p> <p>By repealing section 9, and substituting the following section:</p> <p>“9, <b>Contracts, etc., exempt from stamp duty</b>—No contract, agreement, or other instrument made or executed by or for the Board shall be liable to stamp duty.”</p>
1924, No. 10 (Local)—The Auckland Electric Power Board Amendment Act 1924	By inserting in subsection (1) of section 13, after the words “execute a deed or contract”, the words “otherwise than in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959”.
1925, No. 38—The Electric Power Boards Act 1925, (1957 Reprint, Vol. 4, p. 465)	By inserting in subsection (1) of section 41, after the words “execute a deed or contract”, the words “otherwise than in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959”.
1928, No. 44—The Auckland Transport Board Act 1928	By omitting from section 17 the words “or contract, or to institute an action”, and substituting the words “or to institute an action, and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract”.
1948, No. 11 (Local)—The Hutt Valley Drainage Act 1948	<p>By omitting from subsection (1) of section 15 the words “to enter into a contract”.</p> <p>By adding to the same subsection the words “and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract”.</p>



SECOND SCHEDULE—*continued*

Title of Enactment	Amendment
1950, No. 34—The Harbours Act 1950. (1957 Reprint, Vol. 5, p. 835)	By omitting from subsection (1) of section 38 the words “or contract, or institute an action”, and substituting the words “or institute an action, and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract”.
1950, No. 101—The Auckland Harbour Bridge Act 1950	By omitting from subsection (1) of section 13 the words “to enter into a contract, or to institute an action”, and substituting the words “or to institute an action, and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Authority to enter into a contract”.
1951, No. 19 (Local)—The North Shore Drainage Act 1951	By omitting from subsection (1) of section 14 the words “to enter into a contract”. By adding to the same subsection the words “and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract”.
1951, No. 21 (Local)—The Christchurch District Drainage Act 1951	By adding to subsection (1) of section 24 the following proviso: “Provided that the Board may not delegate to any such committee power to enter into any contract except in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959.”
1954, No. 76—The Municipal Corporations Act 1954	By inserting in paragraph (b) of subsection (1) of section 63, after the words “enter into a contract” the words “otherwise than in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959”.

SECOND SCHEDULE—*continued*

Title of Enactment	Amendment
1956, No. 16—The Christchurch-Lyttelton Road Tunnel Act 1956	By omitting from subsection (1) of section 13 the words “to enter into a contract, or to institute an action”, and substituting the words “or to institute an action, and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Authority to enter into a contract”.
1956, No. 64—The Counties Act 1956. (1957 Reprint, Vol. 3, p. 40)	By inserting in paragraph (b) of subsection (1) of section 71, after the words “enter into a contract”, the words “otherwise than in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959”.
1957, No. 40—The Hospitals Act 1957. (1957 Reprint, Vol. 6, p. 149)	By omitting from subsection (1) of section 44 the words “to enter into a contract, or to institute an action”, and substituting the words “or to institute an action, and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract”.
1959, No. (Local)—The <u>Auckland Metropolitan Drainage Act 1959</u>	By <u>omitting from subsection (1) of section 17 the words “to enter into a contract”.</u> By adding to the same subsection the words <u>“and may delegate to any such committee, in accordance with the provisions of section <u>four</u> of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract”.</u>

Section 5 (2)

THIRD SCHEDULE

## ENACTMENTS REPEALED

- 1908, No. 165—The River Boards Act 1908: Section 68. (1931 Reprint, Vol. IV, p. 530).
- 1914, No. 32—The Local Railways Act 1914: Section 87. (1931 Reprint, Vol. VII, p. 964).
- 1921, No. 17 (Local)—The Auckland Electric Power Board Act 1921: Section 79.
- 1925, No. 38—The Electric Power Boards Act 1925: Section 108. (1957 Reprint, Vol. 4, p. 511).
- 1928, No. 44—The Auckland Transport Board Act 1928: Section 67.
- 1941, No. 12—The Soil Conservation and Rivers Control Act 1941: Section 123.
- 1944, No. 30—The Milk Act 1944: Section 76.
- 1946, No. 2—The Nassella Tussock Act 1946: Section 56.
- 1947, No. 35—The Masterton Licensing Trust Act 1947: Section 25.
- 1948, No. 11 (Local)—The Hutt Valley Drainage Act 1948: Subsections (2) to (5) of section 31.
- 1949, No. 18—The Fire Services Act 1949: Section 31. (1957 Reprint, Vol. 5, p. 204).
- 1949, No. 43—The Licensing Trusts Act 1949: Section 25.
- 1950, No. 33—The Invercargill Licensing Trust Act 1950: Section 26.
- 1950, No. 34—The Harbours Act 1950: Section 130. (1957 Reprint, Vol. 5, p. 364).
- 1950, No. 101—The Auckland Harbour Bridge Act 1950: Section 72.
- 1951, No. 19 (Local)—The North Shore Drainage Act 1951: Subsections (2) to (5) of section 29.
- 1951, No. 21 (Local)—The Christchurch District Drainage Act 1951: Subsections (3) and (4) of section 65.
- 1954, No. 76—The Municipal Corporations Act 1954: Section 148.
- 1955, No. 28—The Rabbits Act 1955: Section 90.
- 1956, No. 16—The Christchurch-Lyttelton Road Tunnel Act 1956: Section 59.
- 1956, No. 64—The Counties Act 1956: Section 168. (1957 Reprint, Vol. 3, p. 79).
- 1957, No. 40—The Hospitals Act 1957: Subsections (1) to (4) of section 45, and so much of the Third Schedule as relates to those subsections. (1957 Reprint, Vol. 6, pp. 149, 217.)
- 1959, No. (Local)—The Auckland Metropolitan Drainage Act 1959: Subsections (2) to (5) of section 30.