

Local Electoral Amendment Act 2004

Public Act 2004 No 62
Date of assent 6 July 2004

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Local Electoral Amendment Act 2004.
- (2) In this Act, the Local Electoral Act 2001 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

- (1) Section 5 of the principal Act is amended by inserting, after the definition of extraordinary vacancy, the following definition:
“**First Past the Post** means the electoral system that is described generally in section 5A”.
- (2) Section 5 of the principal Act is amended by omitting from the definition of **New Zealand method of counting single transferable votes**, the expression “Schedule 1”, and substituting the words “Schedule 1A of the Local Electoral Regulations 2001”.
- (3) Section 5 of the principal Act is amended by inserting, after the definition of **roll** or **roll of electors**, the following definition:
“**Single Transferable Voting** means the electoral system described generally in section 5B”.

4 New sections 5A and 5B inserted

The principal Act is amended by inserting, after section 5, the following sections:

“5A General description of First Past the Post electoral system

For local electoral purposes, the First Past the Post electoral system,—

- “(a) in the case of an election, has the following features:—
 - “(i) voters may cast as many votes as there are positions to be filled:
 - “(ii) where a single position is to be filled, the candidate who receives the highest number of votes is elected:
 - “(iii) where more than 1 position is to be filled, the candidates equal to the number of positions who receive the highest number of votes are elected:
- “(b) in the case of a poll, has the features specified in paragraph (a) as if, with all necessary modifications, every reference to a candidate were a reference to the matter or matters that are the subject of the poll.

“5B General description of Single Transferable Voting electoral system

For local electoral purposes, the Single Transferable Voting electoral system,—

- “(a) in the case of an election for multi-member vacancies, has the following features:—
 - “(i) voters express a first preference for 1 candidate and may express second and further preferences for other candidates:
 - “(ii) a quota for election is calculated from the number of votes and positions to be filled:
 - “(iii) the first preferences are counted and any candidate whose first preference votes equal or exceed the quota is elected:
 - “(iv) if insufficient candidates are elected under subparagraph (iii), the proportion of an elected candidate’s votes above the quota is redistributed according to voters’ further preferences, and—

- “(A) candidates who then reach the quota are elected; and
- “(B) the candidate with the fewest votes is excluded:
- “(v) the excluded candidate’s votes are redistributed according to voters’ further preferences:
- “(vi) if insufficient candidates are elected under subparagraphs (iv) and (v), the steps described in subparagraphs (iv) and (v) are repeated until all positions are filled:
- “(b) in the case of an election for a mayoral or single member vacancy, has the following features:—
 - “(i) voters express a first preference for 1 candidate and may express second and further preferences for other candidates:
 - “(ii) an absolute majority of votes for election is calculated from the number of votes and positions to be filled:
 - “(iii) the first preferences are counted and, if a candidate’s first preference votes equal or exceed the absolute majority of votes, that candidate is elected:
 - “(iv) if no candidate is elected under subparagraph (iii), the candidate with the fewest votes is excluded and that candidate’s votes are redistributed according to voters’ further preferences:
 - “(v) if no candidate is elected under subparagraph (iv), the steps described in subparagraph (iv) are repeated until a candidate is elected:
- “(c) in the case of a poll, has the features specified in paragraphs (a) and (b) as if, with all necessary modifications, every reference to a candidate were a reference to the matter or matters that are the subject of the poll.”

5 Conduct of election or poll in conjunction with other election or poll

Section 18 of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

- “(c) the electoral officer or officers of the territorial authority or authorities that are wholly or partly within the local government area of the local authority that is not a territorial authority are responsible for—
- “(i) issuing and receiving ordinary and special votes and other official documents; and
 - “(ii) carrying out any power or duty delegated to that officer or officers under section 12(2)(a); or
 - “(iii) carrying out any power or duty that the officer or officers have been appointed or engaged to carry out under section 12(2)(b); and”

6 New heading and sections 19AA and 19AB inserted

The principal Act is amended by inserting, after section 19, the following heading and sections:

“Duties of programmers and certifiers

“19AA Duties of programmers

Every person responsible for the design of a counting program intended to implement the New Zealand method of counting single transferable votes must take all reasonable steps to ensure that the program produces outcomes that are consistent with the process specified in Schedule 1A of the Local Electoral Regulations 2001.

“19AB Duties of certifiers

A counting program may not be used at an election or poll under this Act, for the purpose of implementing the New Zealand method of counting single transferable votes, unless a certifier appointed for the purpose by the Secretary for Local Government has first certified that the program produces outcomes that are consistent with the process specified in Schedule 1A of the Local Electoral Regulations 2001”.

7 Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions

Section 19V(2) of the principal Act is amended by inserting, after the words “other than”, the words “members elected by the electors of a territorial authority as a whole, if any, and”.

8 Ratepayer electors

Section 24(1) of the principal Act is amended by omitting—

- (a) from paragraph (a) the words “rateable property”, and substituting the words “rating unit” ; and
- (b) from paragraph (b)—
 - (i) the word “property”, and substituting the words “a rating unit” ; and
 - (ii) the word “occupied”, and substituting the word “owned”.

9 Public notice of procedures for enrolment as ratepayer on electoral roll

Section 39(1)(b) of the principal Act is amended by omitting the words “at least 1 rates assessment delivered by the local”, and substituting the words “the rates assessment or at least 1 rates invoice delivered by the territorial”.

10 Candidacy for ward and membership at large prohibited

Section 57B of the principal Act is amended by adding, as subsection (2), the following subsection:

- “(2) Subsection (1) does not apply to a person who is a candidate for election—
- “(a) as a member in a ward; and
 - “(b) as mayor of the territorial authority of which that ward forms part.”

11 Early processing of votes

- (1) Section 79(1) of the principal Act is amended by omitting the word “territorial”, and substituting the word “local”.
- (2) Section 79 of the principal Act is amended by adding the following subsection:

- “(4) For the purposes of this section, local authority means—
- “(a) a territorial authority; and
 - “(b) a local authority that undertakes the processing of votes for the election to which a resolution under subsection (1) or subsection (2) relates.”

12 Scrutiny of roll

Section 83(1) of the principal Act is amended by omitting the words “or after”.

13 Declaration of result

Section 86(a) of the principal Act is repealed.

14 Electoral records

Section 89(1) of the principal Act is amended by omitting the word “official”.

15 Extraordinary vacancy in local authority or community board

Section 117(3) of the principal Act is amended by omitting the words “ordinary meeting” in both places where they occur, and substituting in each case the words “meeting (other than an extraordinary meeting)”.

16 Electoral systems

Section 140A of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

- “(ab) for the purposes of assisting programmers and certifiers to perform the duties imposed by sections 19AA and 19AB, describing the technical processes involved in the implementation of the New Zealand method of counting single transferable votes:”.

17 Conduct of elections and polls

Section 143(1)(b)(x) of the principal Act is amended by omitting the word “official”.

18 Schedule 1 repealed

Schedule 1 of the principal Act is repealed.

19 Consequential amendments to Local Electoral Regulations 2001

- (1) In this section, the Local Electoral Regulations 2001 (SR 2001/145) are called the “principal regulations”.
 - (2) Regulation 4(1) of the principal regulations is amended by omitting—
 - (a) from the definition of **First Past the Post electoral system** the expression “regulation 5”, and substituting the words “section 5A of the Act” ; and
 - (b) from the definition of **Single Transferable Voting electoral system** the expression “regulation 5A”, and substituting the words “section 5B of the Act”.
 - (3) Regulations 5, 5A, and 90A of the principal regulations are revoked.
 - (4) Regulation 65(1) of the principal regulations is amended by omitting the words “the voting documents have been counted for a second time”, and substituting the words “making the determination specified in regulation 58(3)”.
 - (5) Regulation 83(1) of the principal regulations is amended by omitting the words “the voting documents have been counted for a second time”, and substituting the words “making the determination specified in regulation 79(3)”.
 - (6) Regulation 91 of the principal regulations is amended by omitting from paragraph (b) of the definition of **informal voting document** the words “any recognisable preference for any candidate”, and substituting the words “the voter’s unique first preference”.
 - (7) Clause 1 of Schedule 1A of the principal regulations is revoked.
 - (8) Clause 37(b) of Schedule 1A of the principal regulations is amended by inserting, after the words “a preference”, the words “(other than a first preference)”.
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Legislative history

29 March 2004	Introduction, (Bill 111-1)
7 April 2004	First reading and referral to the Local Government and Environment Committee
14 June 2004	Reported from the Select Committee (Bill 111-2)
June 2004	Supplementary Order Papers 2004 Nos 230, 227, 232 and 234
29 June 2004	Divided from Local Government Law Reform Bill (No 3), third reading
