



Local Electoral Matters Act 2019

Public Act 2019 No 7
Date of assent 8 April 2019
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Electoral Matters Act 2019.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

Part 1

Amendments to Local Electoral Act 2001

3 Amendments to Local Electoral Act 2001

This Part amends the Local Electoral Act 2001.

4 Section 5 amended (Interpretation)

In section 5(1), definition of **voting method**, paragraph (d), after “combination of”, insert “or choice between”.

5 Section 36 amended (Voting method for elections and polls)

After section 36(3), insert:

- (4) Subsection (5) applies if—
- (a) regulations authorise the use of a voting method, for the purpose of conducting a trial of that method, by a specified class of elector in any specified class of election or poll or in any specified election or poll; and
 - (b) the local authority adopts that voting method for the specified class by resolution in accordance with those regulations.

- (5) The voting method to be used by the specified class of elector in the election or poll must be the method adopted by resolution under subsection (4).
- (6) If, under subsection (5), any election or poll of 1 or more territorial authorities in which a voting method is to be used by a specified class of elector is to be conducted in conjunction with 1 or more other elections or polls, that voting method is to be used by the specified class of elector in each of the elections or polls.
- (7) If subsection (5) or (6) (or both) apply to an election or a poll, the voting method or methods to be used for other electors in the election or poll must be determined in accordance with subsections (1) to (3).

6 Section 37 amended (Consultation)

In section 37(1), after “section 36(1)”, insert “or (4)”.

7 New section 73B inserted (Electoral officer may abandon voting method)

After section 73A, insert:

73B Electoral officer may abandon voting method

- (1) The electoral officer may abandon a voting method if, at any time during the voting period, the electoral officer has reasonable grounds to consider that the method has failed or been compromised.
- (2) Without limiting subsection (1), a voting method fails or is compromised if—
 - (a) a system or facility used for the method fails or malfunctions with the effect that some or all of the votes cast using the method are destroyed or otherwise irretrievable;
 - (b) a system or facility used for the method has been manipulated with the effect that it is not possible for the electoral officer to be satisfied, for some or all of the votes cast using the method, that the votes are recorded accurately.
- (3) If the voting method involves a combination of or choice between methods, the decision to abandon a method applies only to (and affects only votes cast using) the method that has failed or been compromised.
- (4) If the electoral officer abandons a voting method,—
 - (a) any votes cast using the method must be disregarded (including for the purpose of section 83(2)); and
 - (b) an elector whose vote is disregarded may vote again—
 - (i) using another method of voting (if subsection (3) applies); or
 - (ii) by casting a special vote; and
 - (c) if the public notice under subsection (5)(a) is given less than 14 days before the close of voting, the electoral officer must adjourn the close of voting to the date that is 14 days after the public notice is given.

- (5) The electoral officer must, as soon as is reasonably practicable,—
 - (a) give public notice that the method has been abandoned and of the matters described in subsection (4); and
 - (b) if it is possible to identify electors whose votes have been disregarded, take all reasonable steps to notify those electors that the method has been abandoned and of the matters described in subsection (4).
- (6) The electoral officer may give any other notice that the electoral officer considers desirable.

8 Section 89 amended (Electoral records)

- (1) In section 89(3), after “subsection (2)”, insert “or section 102C”.
- (2) In section 89(3)(a)(ii), after “for a recount”, insert “or an inquiry”.
- (3) In section 89(4), after “subsection (2)”, insert “or section 102C”.
- (4) In section 89(4)(b), after “in accordance with”, insert “section 102G(2)(b) or”.
- (5) In section 89(5), after “In this section”, insert “and in section 102C”.

9 Cross-heading above section 93 amended

In the cross-heading above section 93, replace “*Inquiry*” with “*Petition for inquiry*”.

10 New sections 102A to 102I and cross-headings inserted

After section 102, insert:

Application by electoral officer for inquiry into election or poll

102A Application by electoral officer for inquiry

- (1) An electoral officer who has reasonable grounds to believe that an irregularity of the type described in section 102G(1)(a) has occurred in relation to an election or poll for which the electoral officer is responsible may apply to the District Court for an inquiry into the election or poll.
- (2) The application may be made jointly with 1 or more electoral officers responsible for affected elections or polls.
- (3) The application must—
 - (a) be filed after the close of voting and before the official results are declared, but in any case not more than 21 days after the close of voting; and
 - (b) be served on the electoral officer responsible for any affected election or poll that is not a subject of the application; and
 - (c) be heard and determined by a District Court Judge.
- (4) For the purposes of this section, an election or poll is **affected** if the outcome of the election or poll is to be determined (to any extent) by votes cast in any

election or poll conducted in conjunction with an election or poll described in subsection (1).

Compare: 2001 No 35 s 93

102B Preliminary or official results not to be announced or declared

- (1) After an application for an inquiry has been made in respect of an election or poll, the electoral officer must not, despite sections 85 and 86,—
 - (a) make any announcement (or any further announcement) of the preliminary results of the election or poll; or
 - (b) declare the official result of the election or poll.
- (2) Subsection (1) applies subject to section 102G(2) and to any order of the District Court.

102C Deposit of electoral records

- (1) As soon as practicable after an application for an inquiry has been made,—
 - (a) the electoral officer must secure all voting documents and specified materials in the prescribed manner; and
 - (b) the voting documents and materials must be deposited with the District Court.
- (2) *See* section 89.

102D Notice of application

- (1) As soon as practicable after an application for an inquiry has been made, the electoral officer must—
 - (a) give public notice of the application; and
 - (b) if the application concerns an election, give written notice of the application to each candidate.
- (2) The notice must specify the elections and polls in respect of which the application is made and state the grounds for the application.
- (3) If the application for an inquiry is made jointly, the electoral officers may give public notice under this section jointly.

102E Who may be respondent

- (1) A notice of an intention to oppose an application for an inquiry may be filed by—
 - (a) any candidate or any 10 electors, if the application concerns an election; or
 - (b) any 10 electors, if the application concerns a poll.
- (2) A person who files a notice under subsection (1) is a respondent to the application.

Compare: 2001 No 35 s 95

102F Time for holding inquiry

An inquiry must be commenced within 14 days after the filing of an application for an inquiry, and not less than 7 days' public notice must be given of the time and place at which the inquiry will be held.

Compare: 2001 No 35 s 96

102G Result of inquiry

- (1) The District Court Judge conducting the inquiry must determine whether—
 - (a) an irregularity occurred that has—
 - (i) materially affected the result of the election or poll (which may include, for example, an irregularity resulting in an insufficient number of votes being capable of being counted or relied upon for there to be confidence in any result); or
 - (ii) directly or indirectly severely undermined public confidence in the integrity of the election or the validity of the results (or both); and
 - (b) as a result of the irregularity, the election or poll is void.
- (2) If the District Court Judge determines that the election or poll is not void,—
 - (a) the electoral officer must, as soon as practicable after the determination,—
 - (i) give public notice of the determination; and
 - (ii) subject to any direction of the Judge, take any other steps necessary to complete the electoral officer's functions in relation to the election or poll in accordance with this Act:
 - (b) if the electoral officer requires the voting documents and materials deposited with the District Court under section 102C(1) for the purpose of paragraph (a)(ii), the voting documents and materials must be provided to the electoral officer.
- (3) A determination under this section that an election or poll is not void does not preclude, or determine an inquiry on, a petition under section 93.

102H Provisions that apply to inquiry

The following provisions apply to the inquiry:

- (a) section 97 (which relates to the powers of the District Court Judge conducting the inquiry):
- (b) section 99 (which provides that elections or polls must not be declared void on the ground of certain irregularities):
- (c) section 100(1)(a), (2), and (3) (which relates to the costs of an inquiry).

102I New election or poll if election or poll declared void

- (1) Section 102 (which provides for a new election or poll to be held or taken if an election or poll is declared void) applies to the inquiry, subject to the modifications described in subsections (2) and (3).
- (2) If an election or poll is declared void as a result of an irregularity in the operation of a voting method, the District Court Judge may order that the new election or poll be conducted—
 - (a) using a different voting method; or
 - (b) using the same method, subject to specified modifications.
- (3) A District Court Judge who makes an order under subsection (2) may also, if the Judge considers it necessary, postpone the date by which the new election or poll must be held or taken beyond the date provided for in section 102(2).

Compare: 2001 No 35 s 102

Order to be final

11 Section 139 amended (Regulations)

In section 139(1)(c), after “or any specified election or poll”, insert “(or, for the purpose of conducting a trial of a voting method, by a specified class of elector or by all electors in any specified class of election or poll or in any specified election or poll)”.

12 Section 141 amended (Voting methods)

In section 141, insert as subsections (2) and (3):

- (2) Regulations made under section 139(1)(c) may specify a class of elector by reference to—
 - (a) a local government area or subdivision in which the specified class of electors is eligible to vote; or
 - (b) any other characteristic that makes a voting method suitable for the specified class of electors (for example, in relation to an electronic method of voting, the members of the specified class may reside overseas or in remote locations, or have a relevant disability).
- (3) If regulations made under section 139(1)(c) prescribe as part of a voting method the use of electors’ date of birth information,—
 - (a) the regulations must also prescribe—
 - (i) measures to prevent unauthorised access to, or use of, electors’ date of birth information; and
 - (ii) the manner in which documents or records containing electors’ date of birth information must be secured after the completion of the count (in accordance with section 89(1)):

- (b) any document or record containing an elector's date of birth must be treated as specified material for the purpose of section 89(5).

13 Section 142 amended (Electoral rolls)

In section 142, insert as subsection (2):

- (2) Despite subsection (1) and section 139(1)(f), regulations made under section 139(1)(f) must not provide for any electoral roll to include an elector's date of birth.

14 Consequential amendment to Local Electoral Regulations 2001

- (1) This section amends the Local Electoral Regulations 2001.
- (2) After regulation 11(2), insert:
- (2A) Despite subclause (2)(a)(iii), the electoral roll must not include any elector's date of birth.

Part 2

Amendments to Electoral Act 1993

15 Amendments to Electoral Act 1993

This Part amends the Electoral Act 1993.

16 Section 112 amended (Supply of information on age and Maori descent)

- (1) In section 112(1)(b)(ii), after "descent", insert "; or".
- (2) After section 112(1)(b), insert:
- (c) without limiting paragraph (a), for the purposes of research by that person that relates to elector participation in an election, a by-election, or a poll conducted under this Act or the Local Electoral Act 2001,—
- (i) a list of electors in a particular age group as defined in section 114(9); or
- (ii) a list of electors of Māori descent.
- (3) In section 112(3)(f), replace "—;" with "; or".
- (4) After section 112(3)(f), insert:
- (g) 1 or more named local board areas;—

17 Section 113 amended (Supply of computer-compiled lists and electronic storage media to local authorities)

- (1) After section 113(10)(f)(iv), insert:
- (iva) local board area; or
- (2) After section 113(10), insert:

- (11) However, if a local authority has resolved to adopt, for an election, a by-election, or a poll, a voting method to which section 141(3) of the Local Electoral Act 2001 applies,—
- (a) the electoral official of the local authority is also entitled to obtain the elector’s date of birth under subsection (1); and
 - (b) for that purpose, subsections (1) to (5) apply as if the date of birth of an elector described in subsection (10) were also specified information.

Legislative history

5 April 2018	Introduction (Bill 50–1)
9 May 2018	First reading and referral to Justice Committee
7 December 2018	Reported from Justice Committee (Bill 50–2)
12 March 2019	Second reading
13 March 2019	Committee of the whole House
2 April 2019	Third reading
8 April 2019	Royal assent

This Act is administered by the Department of Internal Affairs.