



## ANALYSIS

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1961, No. 22

**An Act to amend the Local Elections and Polls Act 1953**  
 [18 October 1961]

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

**1. Short Title**—This Act may be cited as the *Local Elections and Polls Amendment Act 1961*, and shall be read together with and deemed part of the *Local Elections and Polls Act 1953*\* (hereinafter referred to as the principal Act).

**2. Date of general elections**—(1) Section 4 of the principal Act is hereby amended by repealing subsections (1) to (3), and substituting the following subsections:

“(1) Except in the case of the local authorities mentioned in subsections (2) to (6) of this section or where otherwise provided in any Act, and subject to the provisions of section 5 of this Act, the next general election of members of any local authority shall be held on the thirteenth day of October, nineteen hundred and sixty-two, and a general election of members of the local authority shall be held on the second Saturday in October in every third year thereafter.

\*1957 Reprint, Vol. 8, p. 541

Amendments: 1958, No. 48; 1960, No. 70

“(2) The next general election of members of the Auckland Electric Power Board shall be held on the second Saturday in October in the year nineteen hundred and sixty-four, and a general election of members of the Board shall be held on the second Saturday in October in every third year thereafter.

“(3) The next general election of members of the Auckland Transport Board shall be held on the second Saturday in October in the year nineteen hundred and sixty-four, and a general election of members of the Board shall be held on the second Saturday in October in every third year thereafter.”

(2) The Local Elections and Polls Amendment Act 1957 is hereby repealed.

(3) The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(4) This section shall come into force on the first day of January, nineteen hundred and sixty-two.

**3. Election to fill extraordinary vacancy in Borough Council or Town Council—**(1) The principal Act is hereby further amended by inserting, after section 6, the following section:

“6A. (1) Except where otherwise provided in any other Act or where the vacancy occurs pursuant to the provisions of section 47 of this Act, where an extraordinary vacancy occurs in the office of a member of a Borough Council or Town Council, not being the office of Mayor, it shall not be necessary to hold an election to fill that vacancy, unless—

“(a) Where the vacancy occurs in the office of a member representing a ward of a borough divided into wards for the purposes of representation, the total number of members of the Council representing the ward is less than five; or

“(b) The total number of the members of the Council, or, as the case may be, of the members representing such a ward, is five or more but does not exceed twelve and another extraordinary vacancy then remains unfilled; or

“(c) The total number of the members of the Council, or, as the case may be, of the members representing such a ward, exceeds twelve and at least two other extraordinary vacancies then remain unfilled.

“(2) For the purposes of subsection (1) of this section, in determining the total number of members of a Borough Council, the Mayor shall be deemed not to be such a member.

“(3) Notwithstanding anything in subsection (1) of this section,—

“(a) An election shall be held to fill an extraordinary vacancy occurring in the office of a member of a Borough Council or Town Council where—

“(i) The Council, by resolution passed within thirty days after the date of the occurrence of the vacancy, so decides; or

“(ii) Not less than five per cent of the electors for the time being on the roll for the borough or town district or ward, as the case may be, or five hundred of those electors, whichever is the less, by notice in writing under their hands delivered at the office of the council not later than the date specified in subsection (4) of this section, demand that an election be held to fill the vacancy:

“(b) Where an election is required to be held to fill any extraordinary vacancy pursuant to subsection (1) of this section or to paragraph (a) of this subsection, an election shall be held at the same time to fill every other vacancy then existing in the office of a member of the Council or representing the ward, as the case may be:

“(c) Where an election is held to fill an extraordinary vacancy in the office of Mayor of a borough, an election shall be held at the same time to fill every extraordinary vacancy then existing in the office of a member of the Council:

“(d) Where any extraordinary vacancy occurs within six months of the date fixed for the next triennial election, the Council may, by resolution, decide that the vacancy shall not be filled, and in that case no election shall be held to fill that vacancy or any other existing extraordinary vacancy.

“(4) The last date on which any notice may be delivered under subparagraph (ii) of paragraph (a) of subsection (3) of this section shall be thirty days after the date on which the Council first gives public notice that it has decided that an election shall not be held to fill the extraordinary vacancy or (where no such public notice is given) not later than sixty days after the date of the occurrence of the vacancy.

“(5) The Town Clerk shall forthwith—

“(a) Give notice to the Returning Officer of every decision of the Council under paragraph (a) or paragraph (d) of subsection (3) of this section and of every

demand received by the Council under paragraph (a) of that subsection:

“(b) Give public notice of every decision of the Council determining whether or not an election shall be held to fill an extraordinary vacancy occurring in the office of a member of the Council.

“(6) For the purposes of subsection (1) of section 48 of this Act,—

“(a) Where under this section an election is to be held to fill several extraordinary vacancies, all those vacancies shall be deemed to have occurred on the date on which the last of those vacancies occurred, or, in any case to which paragraph (c) of subsection (3) of this section applies, on the date on which the vacancy in the office of Mayor occurred:

“(b) Where under paragraph (a) of subsection (3) of this section an election to fill an extraordinary vacancy is required to be held, the vacancy shall be deemed to have occurred—

“(i) In the case of an election pursuant to a resolution of the Council, on the date on which the resolution is made:

“(ii) In the case of an election pursuant to a demand of the electors, on the last date on which the notice in respect of the demand may be delivered in accordance with subparagraph (ii) of paragraph (a) of subsection (3) and subsection (4) of this section.”

(2) Section 6 of the principal Act is hereby amended by adding the following subsection:

“(3) In this section the term ‘local authority’ does not include a Borough Council or Town Council.”

(3) Section 48 of the principal Act is hereby amended by repealing the second proviso to subsection (1) (as added by subsection (2) of section 15 of the Local Elections and Polls Amendment Act 1958), and substituting the following proviso:

“Provided also that where, before the day appointed under this subsection for an election to fill one or more extraordinary vacancies, the Returning Officer receives notice of a further extraordinary vacancy in an elective office, he may countermand the notice previously given in respect of the first-mentioned vacancy or vacancies and give a fresh public notice under this subsection appointing a day for holding an election

to fill all the vacancies, and the provisions of this subsection shall thereupon apply as if notice of all the vacancies had been received by the Returning Officer on the date on which he received notice of the further vacancy.”

(4) Section 15 of the Local Elections and Polls Amendment Act 1958 is hereby amended by repealing subsection (2).

**4. Alteration of procedure by Order in Council**—The principal Act is hereby further amended by inserting, after section 96, the following section:

“96A. (1) The Governor-General may at any time, by Order in Council made at the request of a local authority received by the Minister not later than six months before the date of the election, authorise the Returning Officer at any specified election to be held in the district of that local authority under this Act, by way of experiment, to—

“(a) Take the poll at that election over such consecutive days (excluding Sundays) and between such hours on those days as are set out in the order; or

“(b) Use mobile polling booths at that election in addition to the polling places required by this Act; or

“(c) Take the poll at that election by postal vote.

“(2) Any Order in Council made under this section may make such additional provision as the Governor-General deems necessary to enable the election to be conducted in accordance with the procedure authorised in the order.

“(3) Every Order in Council under this section shall have effect according to its tenor notwithstanding anything in this Act, and the election shall be conducted by the Returning Officer accordingly:

“Provided that no such Order in Council shall have effect so as to infringe the secrecy of the ballot.

“(4) Any Order in Council made under this section shall apply to all other elections and polls held in that district simultaneously with the election specified in the order.

“(5) The validity of any election conducted in accordance with the provisions of this section shall not be questioned on the ground that the procedure adopted at that election has been adopted by way of experiment.

“(6) As soon as practicable after the election, the Returning Officer shall forward to the Minister a full report as to the conduct of that election.”

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## Section 2 (3)

## SCHEDULE

## ENACTMENTS AMENDED

Title of Act	Amendment
1932-33, No. 47— The Local Legislation Act 1932-33	By repealing subsection (11) of section 10 (as substituted by section 8 of the Local Legislation Act 1959), and substituting the following subsection: “(11) The first election of Councillors of the county to be held after the appointment of the Commissioner shall be the election to be held pursuant to the Local Elections and Polls Act 1953 on the second Saturday in October, nineteen hundred and sixty-five.”
1937, No. 11 (Local)— The Auckland Electric Power Board Amendment Act 1937	By omitting from subsection (1) of section 2 (as amended by subsection (9) of section 2 of the Local Elections and Polls Amendment Act 1946) the words “thirty-first day of July”, and substituting the words “thirtieth day of June”. By omitting from subsection (4) of section 5 (as amended by subsection (9) of section 2 of the Local Elections and Polls Amendment Act 1946) the word “September”, and substituting the word “August”. By omitting from subsection (1) of section 7 (as amended by subsection (9) of section 2 of the Local Elections and Polls Amendment Act 1946) the word “October”, and substituting the word “September”. By omitting from subsection (1) of section 9 (as amended by subsection (9) of section 2 of the Local Elections and Polls Amendment Act 1946) the word “July”, and substituting the word “June”.
1946, No. 27— The Local Elections and Polls Amendment Act 1946	By repealing so much of the Second Schedule as relates to the Auckland Electric Power Board Amendment Act 1937.
1953, No. 16— The Local Elections and Polls Act 1953 (1957 Reprint, Vol. 8, p. 600)	By repealing so much of the Fourth Schedule as relates to the Local Legislation Act 1932-33.

SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title of Act	Amendment
1954, No. 76— The Municipal Corporations Act 1954 (1957 Reprint, Vol. 10, p. 377)	By omitting from subsection (1) of section 29 the words “thirty-first day of July”, and substituting the words “thirtieth day of June”. By omitting from subsection (4) of section 33 the word “September”, and substituting the word “August”. By omitting from subsection (1) of section 35 the word “October”, and substituting the word “September”.
1956, No. 64— The Counties Act 1956 (1957 Reprint, Vol. 3, p. 1)	By omitting from subsection (1) of section 52 the words “thirty-first day of July”, and substituting the words “thirtieth day of June”. By omitting from subsection (1) of section 57 the word “October”, and substituting the word “September”.
1959, No. 92— The Local Legislation Act 1959	By repealing section 8.

This Act is administered in the Department of Internal Affairs.