

ELECTORAL AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Electoral Act 1976. In a number of cases this Bill restores provisions of the Act to the form in which they were before the passing of the Electoral Amendment Act 1975.

Clause 2 amends the proviso to section 30 (3) of the principal Act. Under section 30 a public servant who desires to become a candidate for election as a member of Parliament is required to be placed on leave without pay. The proviso to section 30 (3) creates an exception. That proviso allows a candidate who is a teacher at any school or a member of the staff of a university or university college to continue to teach or supervise the studies of students preparing for examinations and to mark their examination papers. He may receive remuneration in respect of such teaching, supervision, and marking. The amendment effected by this clause limits the scope of the proviso. The proviso will apply only to a candidate who is a member of the staff of a university or university college. It will not apply to a candidate who is a teacher at a school.

Clause 3 amends section 38 of the principal Act relating to the definition of the term "ordinarily resident in New Zealand". Under that definition a person (other than a public servant or the wife or husband of a public servant) is not ordinarily resident in New Zealand if he has been outside New Zealand continuously for more than 3 years. The exception that preserves the position of public servants and the spouses of public servants is extended to include children who accompany a public servant overseas, being children of the public servant or his spouse.

Clause 4 amends section 39 of the principal Act relating to the qualification of electors. The amendment increases from 1 month to 3 months the period of residence required in the electorate. This restores the period of residence which applied before the passing of the Electoral Amendment Act 1975.

Clause 5 amends section 42 of the principal Act relating to disqualification for registration of electors. Under the amendment persons detained pursuant to convictions in any penal institution will be disqualified for registration as electors. This restores a disqualification that applied before the passing of the Electoral Amendment Act 1975.

Clause 6 repeals the provision (inserted by section 32 of the Electoral Amendment Act 1975) which requires the Returning Officer, within 10 days before polling day, to cause to be delivered into every residential letter box in the electoral district a list showing the names of the candidates with their party designations and a list of polling places.

Clause 7 repeals the provision (added by section 37 of the Electoral Amendment Act 1975) which provides that a person is qualified to vote if he is qualified to be registered but is not registered, and he believes on reasonable grounds (to be set out in his application for a special vote) that he is or should have been registered as an elector of the district and he completes and delivers to the issuing officer a form of application for registration as an elector of the district.

Clause 8 increases from \$2,000 to \$4,000 the maximum amount that a candidate may expend for election expenses.

Clause 9 repeals the provision (inserted by section 42 of the Electoral Amendment Act 1975) which permits a candidate to use a loudspeaker in any public place during the period of 1 month before polling day.

Clause 10 inserts a new section 147A in the principal Act.

Subsection (1) of the new section prohibits the publication of any advertisement used or appearing to be used to promote or procure the election of any candidate at an election—

- (a) Unless its publication is authorised in writing by the candidate or, in the case of an advertisement for more than one candidate, by the candidates or the party to which they belong; and
- (b) Unless it contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his residence or place of business.

Subsection (2) of the new section provides that the cost of any advertisement used or appearing to be used to promote or procure the election of a candidate will form part of his election expenses if, and only if,—

- (a) It relates solely to that candidate as a candidate for a particular electoral district; and
- (b) It is published or broadcast—
 - (i) By him; or
 - (ii) With his authority.

Subsection (3) of the new section makes wilful contravention of any provision of *subsection (1)* of the new section an illegal practice.

Subsection (4) of the new section declares that a candidate shall not be liable for a contravention of *subsection (1)* of the new section committed by an agent without the consent or connivance of the candidate.

Subsection (5) of the new section provides that nothing in the section shall restrict the publication of any news or comments relating to an election in a newspaper or other periodical or in a radio or television broadcast made by the Broadcasting Corporation of New Zealand or other holder of a warrant under the Broadcasting Act 1976.

Hon. Mr Thomson

ELECTORAL AMENDMENT

ANALYSIS	
Title	
1. Short Title	6. Advertisement of nominations and polling places
2. Public servants becoming candidates	7. Who may vote
3. Meaning of "ordinarily resident in New Zealand"	8. Maximum amount of election expenses
4. Qualification of electors	9. Use of loudspeakers
5. Disqualifications for registration	10. Advertisements for candidates

A BILL INTITULED

An Act to amend the Electoral Act 1956

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

1. Short Title—This Act may be cited as the Electoral Amendment Act 1977, and shall be read together with and deemed part of the Electoral Act 1956* (hereinafter referred to as the principal Act).

10 **2. Public servants becoming candidates**—Section 30 (3) of the principal Act is hereby amended by omitting from the proviso (as added by section 10 of the Electoral Amendment Act 1975) the words "a teacher at any school or" and also the words "school or" where they secondly occur.

*Reprinted 1975, Vol. 3, p. 1897
Amendment: 1976, No. 46

3. Meaning of "ordinarily resident in New Zealand"—

(1) Section 38 of the principal Act is hereby amended by repealing the proviso to paragraph (b).

(2) Section 38 of the principal Act is hereby further amended by adding, as subsections (2) and (3), the following subsections: 5

"(2) A public servant who is outside New Zealand in the course of his duties and any person accompanying him, being his spouse or his child or his spouse's child, shall be deemed to be ordinarily resident in New Zealand for the purposes of this Act. 10

"(3) Notwithstanding anything in paragraph (b) of subsection (1) of this section, any person (other than a person to whom subsection (2) of this section applies) who has been outside New Zealand continuously for more than 3 years shall be deemed not to be ordinarily resident in New Zealand." 15

4. Qualification of electors—(1) Section 39 (1) of the principal Act (as amended by section 16 (2) of the Electoral Amendment Act 1975) is hereby amended by omitting from paragraph (d) and also from paragraphs (e) and (f) the words "1 month" wherever they occur, and substituting in each case the words "3 months". 20

(2) Section 57 (1) (c) of the principal Act (as amended by section 16 (4) of the Electoral Amendment Act 1975) is hereby amended by omitting the words "1 month", and substituting the words "3 months". 25

(3) Section 16 of the Electoral Amendment Act 1975 is hereby consequentially amended by repealing subsections (2) and (4). 30

5. Disqualifications for registration—Section 42 (1) of the principal Act is hereby amended by adding the following paragraph:

"(d) Persons detained pursuant to convictions in any penal institution." 35

6. Advertisement of nominations and polling places—

(1) Section 84 of the principal Act is hereby amended by repealing subsection (4) (as added by section 32 of the Electoral Amendment Act 1975).

(2) Section 32 of the Electoral Amendment Act 1975 is hereby consequentially repealed. 40

7. **Who may vote**—(1) Section 99 of the principal Act is hereby amended by repealing paragraph (f) (as added by section 37 of the Electoral Amendment Act 1975).

5 (2) Section 37 of the Electoral Amendment Act 1975 is hereby consequentially repealed.

8. **Maximum amount of election expenses**—(1) Section 139 (1) of the principal Act (as amended by section 40 (1) of the Electoral Amendment Act 1975) is hereby amended by omitting the expression “\$2,000”, and substituting the expression
10 “\$4,000”.

(2) Section 40 of the Electoral Amendment Act 1975 is hereby consequentially repealed.

9. **Use of loudspeakers**—(1) The principal Act is hereby amended by repealing section 144A (as inserted by section 42
15 of the Electoral Amendment Act 1975).

(2) Section 42 of the Electoral Amendment Act 1975 is hereby consequentially repealed.

10. **Advertisements for candidates**—The principal Act is hereby amended by inserting, after section 147, the following
20 section:

“147A. (1) No person shall publish or cause or permit to be published in any newspaper, periodical, poster, or handbill, or broadcast or cause or permit to be broadcast over any radio or television station, any advertisement used or appearing to
25 be used to promote or procure the election of any candidate at an election unless—

“(a) The publication of that advertisement is authorised in writing by the candidate or, in the case of an advertisement relating to more than one candidate,
30 the candidates or the party to which they belong; and

“(b) The advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his place
35 of residence or business.

“(2) The cost of every advertisement used or appearing to be used to promote or procure the election of a candidate forms part of the election expenses of that candidate, if, and only if,—

40 “(a) It relates solely to that candidate as a candidate for a particular electoral district; and

“(b) It is published or broadcast—

“(i) By him; or

“(ii) With his authority.

“(3) Every person is guilty of an illegal practice who wilfully contravenes any provision of subsection (1) of this section. 5

“(4) A candidate shall not be liable for an illegal practice under this section committed by an agent without the consent or connivance of the candidate.

“(5) Nothing in this section shall restrict the publication of 10 any news or comments relating to an election in a newspaper or other periodical or in a radio or television broadcast made by the Broadcasting Corporation of New Zealand or other holder of a warrant under the Broadcasting Act 1976.”