

ELECTORAL AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill affects the composition and procedures of the Representation Commission constituted under section 15 of the Electoral Act 1956.

Section 15 is a reserved provision under section 189 of that Act, which provides that no reserved provision shall be repealed or amended unless the proposal for the amendment or repeal—

- (a) Is passed by a majority of 75 percent of all the members of the House of Representatives; or
- (b) Has been carried by a majority of the valid votes cast at a poll of the electors of the General and Maori electoral districts.

Clause 2 repeals sections 15 and 15A of the principal Act, and substitutes new sections 15 to 15c.

Section 15 deals with the composition of the Representation Commission.

Subsection (2): The main changes in this subsection are as follows:

- (a) Consequent on the abolition of the Post Office, provision is no longer made for the Director-General of the Post Office to be a member of the Commission; and
- (b) The terms “official members” and “unofficial members” are no longer used in relation to the members of the Commission.

Subsection (3) provides that, for the purpose of determining the boundaries of the Maori electoral districts, the Commission shall consist not only of the members specified in *subsection (2)* but also of—

- (a) The chief executive of the Ministry of Maori Affairs or, if that Ministry is abolished, the chief executive of such other department of State as is designated for the purpose by the Minister of Maori Affairs by notice in the *Gazette*;
- (b) Two persons (not being public servants directly concerned with the administration of the principal Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council on the nomination of the House of Representatives as members of the Commission, one of those members being nominated to represent the Government and one to represent the Opposition.

Subsection (4) provides that each of the persons appointed under *subsection (3) (b)* shall be a Maori.

Section 15A provides that the appointed members of the Commission may appoint deputies. Every deputy shall hold office during the pleasure of the appointed member by which that deputy was appointed.

Section 15B provides who may act as the deputy of an ex officio member of the Commission.

Section 15c provides who may make submissions to the Representation Commission. The existing provision, in relation to submissions, is section 15A (which was enacted in 1981). The new *section 15c*, which is wider than the existing provision, provides that any political party to which a member of the House of Representatives belongs and any independent member of the House of Representatives and any political party whose candidates have, at the immediately preceding general election, obtained 5 percent or more of the valid votes cast by electors at that general election may make submissions to the Representation Commission in relation to the matters to be considered by the Commission under sections 16 (1) and 23 (2) of the principal Act.

Clause 3 effects a consequential amendment to section 16 of the principal Act.

Clauses 4 to 13, which affect sections 18, 18A, 19, 20 (2), 20A (1), 21, 23, 60, 60A (1), and 60B (1) of the principal Act, contain provisions relating to the promulgation of the boundaries determined by the Commission. Under section 18 of the principal Act (as enacted in 1981) the Representation Commission gives notice of the boundaries of the proposed districts, and of any classification of those districts required for the purposes of the Higher Salaries Commission Act 1977, by publishing in the *Gazette* a notice in which those boundaries are described. Objections to the proposed boundaries and classification (if any) are required to be lodged with the Representation Commission within one month thereafter.

In future the Commission will not publish in the *Gazette* a notice describing the proposed boundaries and classification. Instead, it will publish in the *Gazette* a notice—

- (a) Stating a place or places at which the public may inspect, without charge,—
 - (i) A description of the boundaries of the proposed districts; and
 - (ii) Any classification of the proposed districts that is required for the purposes of the Higher Salaries Commission Act 1977; and
 - (iii) A summary, in respect of each proposed district, of the reasons why the boundaries described are being proposed; and
- (b) Stating the last date on which the Representation Commission will receive written objections to the proposed boundaries or any of them and to the proposed classification (if any) (which date shall be not less than one month after the date of the publication of the notice in the *Gazette*).

The new *section 18 (3)*, which re-enacts the provisions of the existing section 18 (2), provides that if any objections are received, a summary of those objections is to be published in the *Gazette*. The objections are made available for public inspection and counter-objections are invited.

Under the existing section 19 the names and boundaries of the electoral districts, as fixed by the Representation Commission, are reported to the Governor-General, who is required to proclaim them in the *Gazette*.

It is proposed that in future the names and boundaries, as so fixed, be not published in full in the *Gazette*. Instead, it is intended that the Representation Commission report the names and boundaries to the Governor-General and then itself publish in the *Gazette* a notice—

- (a) Stating that the Commission has fixed the names and boundaries of the electoral districts; and

- (b) Stating that the names and boundaries of the electoral districts fixed by the Commission are available for public inspection; and
- (c) Stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge.

The boundaries of the electoral districts are to be defined by the Representation Commission by the use of such words, maps, and graphic means as are sufficient to define those boundaries accurately.

Hon. D. A. M. Graham

ELECTORAL AMENDMENT

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A BILL INTITULED

An Act to amend the Electoral Act 1956

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title**—This Act may be cited as the Electoral Amendment Act 1991, and shall be read together with and deemed part of the Electoral Act 1956* (hereinafter referred to as the principal Act).

10 **2. New sections substituted**—(1) The principal Act is hereby amended by repealing section 15 and section 15A (as inserted by section 3 of the Electoral Amendment Act 1981), and substituting the following sections:

15 “**15. Representation Commission**—(1) In order to provide for the periodical readjustment of the representation of the people of New Zealand in the House of Representatives there shall be a Commission to be known as the Representation Commission.

*R.S. Vol. 26, p. 173

- “(2) The Commission shall consist of—
- “(a) The Surveyor-General:
- “(b) The Government Statistician:
- “(c) The Chief Electoral Officer:
- “(d) The Chairperson of the Local Government Commission: 5
- “(e) Two persons (not being public servants directly concerned with the administration of this Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council on the nomination of the House of Representatives as members of the Commission, one of those members being nominated to represent the Government and one to represent the Opposition: 10
- “(f) One person (not being a public servant directly concerned with the administration of this Act or a member of the House of Representatives), who shall be appointed as a member of the Commission by the Governor-General by Order in Council on the nomination of the members of the Commission, who hold office under **paragraph (a) or paragraph (b) or paragraph (c) or paragraph (e)** of this subsection, or a majority of them, to be the Chairperson of the Commission. 20
- “(3) For the purpose of determining the boundaries of the Maori electoral districts, the Commission shall consist not only of the members specified in **subsection (2)** of this section but also of— 25
- “(a) The chief executive of the Ministry of Maori Affairs or, if that Ministry is abolished, the chief executive of such other department of State as is designated for the purpose by the Minister of Maori Affairs, by notice in the *Gazette*: 30
- “(b) Two persons (not being public servants directly concerned with the administration of this Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council on the nomination of the House of Representatives as members of the Commission, one of those members being nominated to represent the Government and one to represent the Opposition. 35 40
- “(4) Each of the persons appointed under **subsection (3) (b)** of this section shall be a Maori.
- “(5) Notwithstanding **subsection (2) (d)** of this section, the Chairperson of the Local Government Commission shall not be entitled to vote on any matter before the Commission, and 45

shall not be regarded as a member of the Commission for the purpose of forming part of a quorum pursuant to section 21 (1) of this Act.

5 “(6) The Chairperson and every member of the Commission who holds office under **subsection (2) (e) or subsection (3) (b)** of this section, unless he or she sooner ceases to be a member as provided in **subsection (7)** of this section, shall cease to be a member on the date on which the first periodical census of population is taken after the date of his or her appointment.

10 “(7) The Chairperson or any member of the Commission who holds office under **subsection (2) (e) or subsection (3) (b)** of this section may resign his or her appointment by writing addressed to the Governor-General, in which case, or in case of any such member being convicted of any indictable offence, or of his or her refusing to act, or of his or her death or mental or physical incapacity, or of his or her absence from New Zealand when his or her services are required, the Governor-General may, by Order in Council, appoint another person in his or her stead on the same nomination as in the case of the original appointment:

15 “Provided that, if Parliament is not in session at the time, an appointment of a member to represent the Government or the Opposition may be made on the nomination of the Prime Minister or of the Leader of the Opposition, as the case may be.

20 “(8) There shall be paid out of money appropriated by Parliament for the purpose to the Chairperson and each member of the Commission who holds office under **subsection (2) (e) or subsection (3) (b)** of this section remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling
25 Allowances Act 1951, and the provisions of that Act shall apply accordingly, and the Commission shall be a statutory Board for the purposes of that Act.

30 “**15A. Deputies of appointed members**—(1) In this section ‘appointed member’ means a member of the Commission appointed under **section 15 (2) (e) or section 15 (2) (f) or section 15 (3) (b)** of this Act.

35 “(2) Any appointed member may from time to time, by writing under his or her hand, appoint any person to be the deputy of that appointed member.

40 “(3) No person other than a Maori shall be appointed under this section as the deputy of a member of the Commission appointed under **section 15 (3) (b)** of this Act.

 “(4) The deputy of any appointed member may exercise the powers conferred on that appointed member by this Act during

any period when that appointed member is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.

“(5) The deputy of the appointed member who holds office as the Chairperson of the Commission shall, in addition, have authority to act as Chairperson of the Commission during any period when the Chairperson of the Commission is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.

“(6) Every deputy appointed under this section shall hold office during the pleasure of the appointed member by which that deputy was appointed.

“(7) No act done by any deputy appointed under this section in that capacity, and no act done by the Commission while any such deputy is so acting, shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.

“15B. **Deputies of ex officio members**—(1) Where the Chairperson of the Local Government Commission is unable or likely to be unable to perform his or her duties as a member of the Representation Commission because of illness, absence, or any other reason, and it appears to the Minister of Local Government that the inability to perform the duties is likely to continue for a period of more than 14 days, the Minister of Local Government may appoint a deputy (who shall be another member of the Local Government Commission) to perform all the functions, duties, and powers of the Chairperson of the Local Government Commission in his or her capacity as a member of the Representation Commission.

“(2) The Deputy Surveyor-General appointed pursuant to section 8 of the Survey Act 1986 shall have and may exercise, subject to the control of the Surveyor-General, all the functions, duties, and powers of the Surveyor-General in his or her capacity as a member of the Commission.

“(3) Any Deputy Government Statistician appointed pursuant to section 17 of the Statistics Act 1975 shall have and may exercise, subject to the control of the Government Statistician, all the functions, duties, and powers of the Government Statistician in his or her capacity as a member of the Commission.

“(4) The Deputy Chief Electoral Officer appointed pursuant to section 6 of this Act shall have and may exercise, subject to the control of the Chief Electoral Officer, all the functions,

duties, and powers of the Chief Electoral Officer in his or her capacity as a member of the Commission.

5 “(5) Where the chief executive who holds office under **section 15 (3) (a)** of this Act as a member of the Representation Commission is unable or likely to be unable to perform his or her duties as such a member because of illness, absence, or any other reason, or where there is a vacancy in the position of that chief executive, that chief executive or any acting chief executive acting under section 40 (1) of the State Sector Act 10 1988 may appoint a deputy (who shall be a member of the senior executive service employed in the Department of which the chief executive is the administrative head) to perform all the functions, duties, and powers of the chief executive in his or her capacity as a member of the Representation Commission.

15 “(6) Every deputy appointed under **subsection (1)** or **subsection (5)** of this section shall hold office during the pleasure of the person by which that deputy was appointed.

20 “(7) No act done by any deputy to which this section applies and no act done by the Commission while any such deputy is so acting, shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.

25 “15c. **Submissions**—Any political party to which a member of the House of Representatives belongs and any independent member of the House of Representatives and any political party whose candidates have, at the immediately preceding general election, obtained 5 percent or more of the valid votes cast by electors at that general election may make submissions to the Commission in relation to the matters to be considered by the Commission under sections 16 (1) and 23 (2) of this Act.”

30 (2) The following enactments are hereby repealed:

(a) Section 5 of the Electoral Amendment Act 1975:

(b) Section 3 of the Electoral Amendment Act 1981:

(c) Section 2 of the Electoral Amendment Act (No. 2) 1986.

35 **3. Division of New Zealand into General electoral districts after each census**—(1) Section 16 of the principal Act is hereby amended by repealing subsection (1A) (as inserted by section 3 (1) of the Electoral Amendment Act 1985), and substituting the following subsection:

40 “(1A) As soon as possible after each periodical census, the Surveyor-General shall call a meeting of the members of the Commission who hold office under **section 15 (2)** of this Act for the purpose of nominating a person as Chairperson of the Commission.”

(2) Section 3 (1) of the Electoral Amendment Act 1985 is hereby consequentially repealed.

4. Notice of proposed boundaries and classification—

(1) The principal Act is hereby amended by repealing section 18 (as substituted by section 6 of the Electoral Amendment Act 1981), and substituting the following section: 5

“18. (1) When the Commission proposes to make a division under section 16 of this Act, it shall publish in the *Gazette* a notice—

“(a) Stating a place or places at which the public may inspect, 10
without charge,—

“(i) A description of the boundaries of the proposed districts; and

“(ii) Any classification of the proposed districts that is required for the purposes of the Higher 15
Salaries Commission Act 1977; and

“(iii) A summary, in respect of each proposed district, of the reasons why the boundaries described are being proposed; and

“(b) Stating the last date on which the Commission will 20
receive written objections to the proposed boundaries or any of them and to the proposed classification (if any) (which date shall be not less than one month after the date of the publication of the notice in the *Gazette*). 25

“(2) Any failure to comply with subsection (1) (a) (iii) of this section shall not of itself invalidate any decision or proceedings of the Commission.

“(3) Where any objections are received under subsection (1) (b) of this section, the Commission shall publish in the *Gazette* a 30
notice—

“(a) Containing a summary of the objections; and

“(b) Stating a place or places at which the objections are available for public inspection; and

“(c) Stating the last date on which the Commission will 35
receive written counter-objections to those objections or any of them (which date shall not be less than 2 weeks after the date of the publication of the notice in the *Gazette*).

“(4) The Commission shall, before coming to a final 40
determination, duly consider any objections lodged under subsection (1) (b) of this section and any counter-objections lodged under subsection (3) of this section.”

(2) Section 6 of the Electoral Amendment Act 1981 is hereby consequentially repealed.

5. Communication to officials—Section 18A(1) of the principal Act (as enacted by section 4 of the Electoral Amendment Act 1985) is hereby amended by inserting, after the words “this Act, of”, the words “a notice stating a place or places at which the public may inspect, without charge, a description of”.

6. Report of Commission—(1) The principal Act is hereby amended by repealing section 19, and substituting the following section:

“19. (1) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to section 16 (3) of this Act,—

“(a) Report the names and boundaries of the electoral districts fixed by it to the Governor-General; and

“(b) Publish in the *Gazette* a notice—

“(i) Stating that the Commission has fixed the names and boundaries of the electoral districts; and

“(ii) Stating that the names and boundaries of the electoral districts fixed by the Commission are available for public inspection; and

“(iii) Stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge.

“(2) The boundaries of the electoral districts fixed by the Commission shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those boundaries accurately.

“(3) From the date of the gazetting of the notice required by subsection (1) (b) of this section, the electoral districts fixed by the report shall be the electoral districts of New Zealand for the purpose of the election of members of Parliament after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of the notice required by subsection (1) (b) of this section in respect of that report.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 6 (2) (c) of the Electoral Amendment Act 1975;

(b) Section 5 (1) of the Electoral Amendment Act 1985.

7. Report and maps to be laid before Parliament— Section 20 (2) of the principal Act is hereby amended by omitting the word “proclaimed”, and substituting the words “presented to the Governor-General”.

8. Indexes of streets and places—Section 20A of the principal Act (as substituted by section 7 (1) of the Electoral Amendment Act 1981) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Surveyor-General—

“(a) Shall, as soon as practicable after the gazetting of a notice under section 19 (1) (b) of this Act, compile, in respect of each electoral district, an index of streets and places within that district; and

“(b) Shall compile from time to time, a comprehensive index which shall contain the names of all streets and places in New Zealand and which shall show the electoral district or electoral districts in which each street or place is to be found.”

9. Proceedings of Commission—Section 21 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Any 4 members of the Commission of whom 2 are the members holding office under section 15 (2) (e) of this Act shall be a quorum, and may exercise all functions vested in the Commission.”

10. Maori representation—(1) Section 23 of the principal Act (as substituted by section 8 (1) of the Electoral Amendment Act 1981) is hereby amended by repealing subsections (7) to (9), and substituting the following subsections:

“(7) Due notice of the issuing of the proposed boundaries of the 4 Maori electoral districts shall be given in the *Gazette* and section 18 of this Act, with all necessary modifications, shall apply accordingly.

“(8) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to section 16 (3) of this Act,—

“(a) Report the boundaries fixed by it in respect of the Maori electoral districts to the Governor-General; and

“(b) Publish in the *Gazette* a notice—

“(i) Stating that the Commission has fixed the boundaries of the Maori electoral districts; and

“(ii) Stating that the boundaries fixed by the Commission in respect of the Maori electoral districts are available for public inspection; and

5 “(iii) Stating places at which copies of the boundaries fixed by the Commission are available for public inspection without charge.

 “(9) The boundaries fixed by the Commission in respect of the Maori electoral districts shall be defined by the Commission by the use of such words, maps, and graphic means as are
10 sufficient to define those boundaries accurately.

 “(10) From the date of the gazetting of the notice required by subsection (8) (b) of this section, the boundaries of the Maori electoral districts as fixed by the report shall be the boundaries of the Maori electoral districts for the purpose of the election of
15 Maori members of Parliament after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of the notice required by subsection (8) (b) of this section in respect of that report.”

20 (2) The Electoral Amendment Act 1986 is hereby consequentially repealed.

11. New rolls on change of boundaries—Section 60 of the principal Act (as substituted by section 12 of the Electoral Amendment Act 1985) is hereby amended by repealing
25 subsection (1), and substituting the following subsection:

 “(1) Where a notice is gazetted under section 19 (1) (b) or section 23 (8) (b) of this Act, the Chief Registrar shall—

30 “(a) Decide, on the basis of the then existing rolls, which of the electors are entitled to be registered as electors of each electoral district whose boundaries are fixed by the report to which the notice relates; and

 “(b) Compile for each electoral district whose boundaries are fixed by the report to which the notice relates a list of persons appearing to be entitled to be registered
35 as electors of that electoral district (in this section called the ‘compiled list’).”

12. Maintenance of rolls being replaced—Section 60A (1) of the principal Act (as substituted by section 13 of the Electoral Amendment Act 1985) is hereby amended by omitting the
40 words “section 19 (1) of this Act of the Proclamation”, and substituting the words “section 19 (1) (b) of this Act of the notice”.

13. Rolls where Parliament dissolved after change of boundaries and before new rolls completed—(1) Section 60B of the principal Act (as substituted by section 23 (1) of the Electoral Amendment Act 1980) is hereby amended by repealing subsection (1) (as amended by section 14 of the Electoral Amendment Act 1985), and substituting the following subsection: 5

“(1) Where Parliament is dissolved in the period between the gazetting of a notice under **section 19 (1) (b) or section 23 (8) (b)** of this Act and the completion of the compilation of the rolls pursuant to section 60 of this Act, the Chief Registrar shall— 10

“(a) Comply with **paragraphs (a) and (b) of section 60 (1)** of this Act; and

“(b) Direct which of the applications for registration as electors which constituted the rolls of the electoral districts that were defined immediately before the report to which that notice relates took effect shall be sent to the respective Registrars of the electoral districts fixed by that report.” 15

(2) Section 14 of the Electoral Amendment Act 1985 is hereby consequentially repealed. 20