

ELECTORAL AMENDMENT BILL (NO. 3)

EXPLANATORY NOTE

THIS Bill amends the Electoral Act 1956.

Most of the amendments result from the acceptance by the Government of recommendations contained in the *Report of the Electoral Law Committee On Its Inquiry Into The 1990 General Election* [I. 17B].

Significant amendments to the Electoral Act 1956 include—

- (a) A reduction from 17 years 9 months to 17 years in the age at which a person may lodge an application for registration as an elector (*clause 2*);
- (b) A change in the deadline for enrolment, where a writ has been issued for an election, which deadline is to be writ day, instead of 4 p.m. on the day before polling day (*clauses 3, 4, and 8*);
- (c) An alteration to the exception that applies in relation to the offence of processing, manipulating, or otherwise changing electoral information. That exception, which applies in relation to electoral information that is more than 10 years old, is extended so that it will apply to information which is more than 10 years old and which is contained in any habitation index or in any printed roll (*clause 5*);
- (d) An increase from \$200 to \$300 in the deposit payable by a candidate (*clause 6*);
- (e) A requirement that, where public schools are used as polling places, the Returning Officer shall pay the cost of heating and lighting used on polling day (*clause 7*);
- (f) An alteration to the provision relating to blind, disabled, and illiterate voters so that any person to whom the provision applies, and not just a voter who is wholly or partially blind, may receive assistance in the marking of ballot papers (*clause 9*);
- (g) A new section 115 that abolishes the need for the Returning Officer to mark each ballot paper with a consecutive number when the Returning Officer opens parcels of used ballot papers under that section. It also allows the count to begin before all special votes have been checked (*clause 11*);
- (h) An increase from \$200 to \$1,000 in the deposit payable when an application is made for a recount (*clause 12*);
- (i) A new form of nomination paper (*clause 13 and Schedule*).

Hon. D. A. M. Graham

ELECTORAL AMENDMENT (NO. 3)

ANALYSIS

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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 (No. 3) 1993, and shall be read together with and deemed part of the Electoral Act 1956* (hereinafter referred to as the principal Act).

10 **2. Compulsory registration of electors**—Section 43 (2) of the principal Act (as substituted by section 11 (1) of the Electoral Amendment Act 1990) is hereby amended by omitting the words “17 years 9 months”, and substituting the words “17 years”.

15 **3. Procedure following application for registration**—Section 49 of the principal Act (as substituted by section 17 (1) of the Electoral Amendment Act 1980 and amended by section 19 (1) of the Electoral Amendment Act 1990) is hereby amended by inserting, after subsection (3), the following subsections:

*R.S. Vol. 26, p. 173
Amendments: 1991, No. 68; 1992, No. 36

“(4) Where an application for registration as an elector has been received before the issue of a writ and it has not been possible for the Registrar to ascertain, at the time of the issue of the writ, whether the applicant is currently registered as an elector of another electoral district, the Registrar shall, subject to **subsection (5)** of this section, include the name of the applicant on any main, supplementary, or composite roll printed as at writ day. 5

“(5) Notwithstanding anything in this Act, where the Registrar has, under **subsection (4)** of this section, included the name of any person on any main, supplementary, or composite roll printed as at writ day, the Registrar shall, within 6 days after writ day, determine, either— 10

- “(a) To enter the name of the applicant on the electoral roll; or 15
- “(b) To delete the name of the applicant from that main, supplementary, or composite roll.”

4. Applications received after issue of writ—(1) The principal Act is hereby amended by repealing section 50 (as substituted by section 20 (1) of the Electoral Amendment Act 1990), and substituting the following section: 20

“50. (1) Where a writ has been issued for an election in a district, then, subject to **subsections (2) to (4)** of this section, the Registrar shall not, at any time in the period beginning on the day after writ day and ending with the day of the return of the writ, register any application for registration as an elector that the Registrar receives after writ day. 25

“(2) For the purposes of **subsection (1)** of this section, an application for registration shall be deemed to have been received on or before writ day if— 30

- “(a) The application or the envelope in which it is contained bears a postmark or date stamp impressed at any New Zealand Post outlet or agency on or before that day; or
- “(b) The applicant for registration produces a receipt which relates to the application and which was issued by any New Zealand Post outlet or agency on or before that day. 35

“(3) Nothing in **subsection (1)** of this section applies to any applicant who satisfies the Registrar that the applicant has become qualified for registration as an elector of the district in the period commencing on the 31st day before writ day and ending with the close of the day before polling day. 40

“(4) Where any person applies for registration after a writ has been issued for an election in a district and before 4 p.m. on the day before polling day,—

5 “(a) The Registrar shall, if the Registrar is satisfied that that person is entitled to be registered under **subsection (3)** of this section, forthwith enter the name of that person on the electoral roll; and

“(b) The Registrar shall not be required to enter the name of that person on the main roll or any supplementary

10 roll or composite roll used at that election; and
“(c) That person may, at that election, vote only by way of a special vote.”

(2) Section 20 of the Electoral Amendment Act 1990 is hereby consequentially repealed.

15 **5. Offence in respect of manipulating or processing electoral information**—Section 64BC of the principal Act (as substituted by section 28 (1) of the Electoral Amendment Act 1990) is hereby amended by repealing subsection (2), and substituting the following subsections:

20 “(2) It shall not be an offence against subsection (1) of this section to process, manipulate, or otherwise change information obtained pursuant to any of the provisions of sections 64A, 64B, 64BA, and 65AE of this Act into a different form if—

25 “(a) The processing or manipulation is done, or the change is effected, by or on behalf of the person by whom the information was obtained; and

“(b) The information, in its different form, is used only for purposes authorised by the provision under which it

30 was obtained.
“(2A) It shall not be an offence against subsection (1) of this section to process, manipulate, or otherwise change information obtained pursuant to any of the provisions of sections 64A, 64B, 64BA, and 65AE of this Act or contained in any

35 habitation index or any printed roll into a different form if the information was obtained under this Act more than 10 years before the date on which the processing or manipulation is done or the change is effected.”

40 **6. Deposit by candidate**—Section 81 (1) of the principal Act (as substituted by section 39 (1) of the Electoral Amendment Act 1990) is hereby amended by omitting the expression “\$200”, and substituting the expression “\$300”.

7. Use of public schools as polling places—Section 91A of the principal Act (as substituted by section 43 of the Electoral Amendment Act 1990) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The cost of cleaning any part of a school used as a polling place, the cost of heating and lighting used on polling day, and the cost of repairing any damage arising from the use of a school as a polling place, shall be defrayed by the Returning Officer out of money to be appropriated by Parliament.”

8. Who may vote—(1) Section 99 of the principal Act is hereby amended by repealing paragraph (b) (as substituted by section 49 (1) of the Electoral Amendment Act 1990), and substituting the following paragraph:

“(b) Any person who, after writ day and before polling day, applies for registration as an elector of the district and satisfies the Registrar, not later than the 9th day after polling day, that that person became qualified for registration as an elector of the district in the period commencing on the 31st day before writ day and ending with the close of the day before polling day:”.

(2) Section 99 of the principal Act is hereby amended by repealing paragraph (d) (as substituted by section 49 (2) of the Electoral Amendment Act 1990), and substituting the following paragraph:

“(d) Any person—
 “(i) Who is qualified to be registered as an elector of the district; and
 “(ii) Who is registered as an elector of the district as a result of having applied, since the last preceding election and not later than writ day, for registration as an elector of the district or, where a change of boundaries has intervened, of some other district in which that person’s then place of residence within the first-mentioned district was then situated:”.

9. Blind, disabled, or illiterate voters—(1) The principal Act is hereby amended by repealing section 108 (as substituted by section 33 (1) of the Electoral Amendment Act 1981), and substituting the following section:

“108. (1) Any elector who is wholly or partially blind, or (whether because of physical handicap or otherwise) is unable to read or write or has severe difficulty in reading or writing, or

is not sufficiently familiar with the English language to vote without assistance, may vote in accordance with the provisions of this section.

5 “(2) At the request of any such voter, any person nominated by the voter, or, if no person is so nominated, the Deputy Returning Officer, shall accompany the voter into one of the inner compartments provided for the marking of ballot papers, and the ballot paper may there be marked by the voter with the assistance of the person nominated or, as the case may be, 10 of the Deputy Returning Officer, or may be marked by the person nominated or, as the case may be, by the Deputy Returning Officer in accordance with the instructions of the voter.

15 “(3) A voter to whom subsection (2) of this section applies, whether or not he or she nominates a person for the purposes of that subsection, may nominate a person or another person, as the case may require, to inspect the ballot paper before it is deposited in the ballot box.

20 “(4) Any elector voting as a special voter may vote in the manner prescribed by this section, with any necessary modifications, or in any manner prescribed by regulations made under this Act.

25 “(5) Every person commits an offence, and shall be liable on summary conviction to imprisonment for a term not exceeding 3 months, who, being a person who is present in accordance with this section or with any regulations when an elector votes, communicates at any time to any person any information obtained as to the candidate for whom the voter is about to vote or has voted, or as to the number on the ballot paper given 30 to the voter.

35 “(6) Regulations made under section 188 of this Act may make provision for electors who are wholly or partially blind to vote by means of devices that enable them to vote without assistance despite the fact that they are wholly or partially blind.”

(2) Section 33 of the Electoral Amendment Act 1981 is hereby consequentially repealed.

40 **10. Procedure after close of poll**—Section 111 (1) (e) (i) of the principal Act is hereby amended by omitting the word “enclosures”, and substituting the word “bundles”.

11. Counting the votes—(1) The principal Act is hereby amended by repealing section 115 (as amended by section 60 of

the Electoral Amendment Act 1990), and substituting the following section:

“115. (1) On completion of the scrutiny required by sections 112 to 114 of this Act, the Returning Officer, with such assistants as the Returning Officer considers necessary, and in the presence of such of the scrutineers appointed under section 112 of this Act as are present (not exceeding, unless the Returning Officer otherwise permits, one scrutineer for each candidate), and also in the presence of some Justice (who shall attend at the request of the Returning Officer), but of no other person, shall select and open one of the parcels of used ballot papers referred to in section 111 (1) (e) of this Act. 5
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“(2) The procedure set out in **subsection (1)** of this section need not be delayed until the inquiries under section 113 (2) of this Act or the inquiries as to the qualifications of persons casting a special vote at the election, have been completed, and the ballot papers from any particular polling booth may be counted while any inquiries in respect of ballot papers from that booth or in respect of the qualifications of persons casting a special vote at the election are being completed, but the count shall not be completed until those inquiries have been completed. 15
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“(3) No special vote shall be disallowed by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election. 25

“(4) Where a person who has voted in an election dies before the close of the day before polling day, the Returning Officer shall, on receiving from a Registrar of Births and Deaths notification of that person’s death, disallow that person’s vote.

“(5) When the parcel so selected has been selected and opened, the Returning Officer shall, in the presence of his or her assistants (if any) and the scrutineers and Justice, but of no other person, deal with the ballot papers as follows: 30

“(a) He or she shall reject as informal—

“(i) Any ballot paper that does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by any Deputy Returning Officer or a poll clerk authorised by a Deputy Returning Officer to issue ordinary ballot papers; and 35
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“(ii) Any ballot paper that does not clearly indicate the candidate for whom the voter desired to vote:

Provided that no ballot paper shall be rejected as informal by reason only of some informality in the manner in which it has 45

been dealt with by the voter if it is otherwise regular, and if, in the opinion of the Returning Officer, the intention of the voter is clearly indicated:

5 Provided also that no ballot paper shall be rejected as informal by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election:

10 “(b) The Returning Officer shall then count the number of votes received by each candidate, and the number of votes rejected as informal, and compare the result of that count with the certificate of the Deputy Returning Officer in respect of the preliminary count, and shall, where necessary, amend that certificate; and every such certificate shall be
15 initialled by the Returning Officer and the Justice attending:

20 “(c) The Returning Officer shall then make up and secure the parcel anew, and endorse thereon a memorandum specifying the number of ballot papers contained in the parcel, the number of votes received by each candidate, the number of informal ballot papers, and the number of the booth at which the votes were recorded; and the endorsement shall be signed
25 by the Returning Officer and the Justice attending.

“(6) After the ballot papers from one parcel have been dealt with in the manner aforesaid, those from the remaining parcels shall be successively dealt with in like manner.

30 “(7) The ballot papers of special voters shall be dealt with in like manner, after which they shall be made up together into a parcel which shall be properly secured and shall be endorsed in the manner hereinbefore described.

35 “(8) When all the ballot papers have been dealt with in the prescribed manner the Justice attending shall sign a certificate stating the total number of ballot papers used at the election, the number of votes received by each candidate, and the number of informal votes, and that certificate shall be preserved by the Returning Officer for production when required.

40 “(9) Where at any count of the ballot papers under this section counting of the ballot papers extends beyond one day, the Justice attending shall give his or her certificate day by day showing the progress of that counting and describing the parcels counted in his or her presence.”

45 (2) Section 60 of the Electoral Amendment Act 1990 is hereby consequentially repealed.

12. Application to District Court Judge for recount—Section 117 (2) of the principal Act (as substituted by section 61 (1) of the Electoral Amendment Act 1990) is hereby amended by omitting the expression “\$200”, and substituting the expression “\$1,000”. 5

13. Nomination paper—The First Schedule to the principal Act is hereby amended by repealing form 6 (as substituted by section 81 of the Electoral Amendment Act 1990), and substituting the form 6 set out in the Schedule to this Act. 10

SCHEDULE

Section 13

NEW FORM 6 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL ACT

Form 6

NOMINATION PAPER

To the Returning Officer for the _____ Electoral District.

WE, the undersigned registered electors of the _____ Electoral District, hereby nominate [Name], of [Residence and occupation], a registered elector of the _____ Electoral District, with his [or her] consent, as a candidate at the election of a member of Parliament for the _____ Electoral District, the poll for which is appointed for Saturday the day of _____ 19 .

Dated at _____ this _____ day of _____ 19 .

[Signatures and full names, residences, and occupations of 2 or more electors nominating.]

I, [Name], being qualified to be a candidate and to be elected a member of Parliament in terms both of section 25 of the Electoral Act 1956 and of any other enactment, hereby consent to the above nomination.

My surname is

My given names are

The name I wish to appear on the ballot paper (being a name that is short enough to fit on the ballot paper) is

*The name of my political party is

or

*I am an independent candidate.

[Signature, residence, contact phone number and occupation of person nominated.]

*Delete whichever is inapplicable.

NOTES

1. As to the nomination of candidates, see section 80 of the Electoral Act 1956.
2. As to the required deposit, see section 81 of the Electoral Act 1956.
3. As to the acceptance or rejection of nominations, see section 82 of the Electoral Act 1956.
4. As to the names under which candidates may be nominated, see subsections (2) to (4) of section 82 of the Electoral Act 1956.
5. As to the withdrawal of nominations, see section 83 of the Electoral Act 1956.