

## **ELECTORAL POLL BILL**

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### EXPLANATORY NOTE

THIS Bill provides for the holding, in the year 1992, of a poll on proposals for the reform of the electoral system.

The poll (which is described in the Bill as an indicative poll) is to be held on a Saturday not later than 30 September 1992.

Many of the provisions of the Bill are of a machinery nature relating to the taking of the poll.

The nub of the Bill is to be found in form 1 in the Schedule.

This form, the form of voting paper, envisages that voters will vote both on Voting System Proposals and on Reform Options.

The Voting System Proposals are as follows:

I VOTE TO RETAIN THE PRESENT FIRST-PAST-THE-POST SYSTEM.

I VOTE FOR A CHANGE TO THE VOTING SYSTEM.

The Reform Options are as follows:

I VOTE FOR THE PREFERENTIAL VOTING SYSTEM

I VOTE FOR THE MIXED MEMBER PROPORTIONAL SYSTEM.

I VOTE FOR THE SUPPLEMENTARY MEMBER SYSTEM.

The order in which the Reform Options are to be listed on the voting paper will be determined by the Chief Electoral Officer by lot.

If a majority of the votes cast in the poll are for the retention of the present first-past-the-post system, no further poll on the voting system will be held. If a majority of the votes cast in the poll are for a change, a further poll on the voting system will be held at the time of the next general election.

That second poll would offer a choice between the present first-past-the-post system and the reform option that received the most votes in the first poll.

The Bill will expire with the close of 31 March 1993.

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Hon. D. A. M. Graham

## ELECTORAL POLL

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### A BILL INTITULED

## **An Act to provide for the holding, in the year 1992, of a poll on proposals for the reform of the electoral system**

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

**1. Short Title**—This Act may be cited as the Electoral Poll Act 1991.

**2. Expiry**—This Act shall expire with the close of the 31st day of March 1993, and on the close of that day shall be deemed to be repealed.

*Indicative Poll*

**3. Indicative poll of electors on proposals for electoral reform**—(1) On such day in the year 1992 as shall be fixed by the Governor-General by Order in Council, a poll of the electors of each electoral district (within the meaning of the Electoral Act 1956) shall be taken on proposals about the electoral system. 5 10

(2) The poll required by subsection (1) of this section is referred to in this Act as the indicative poll.

(3) Subject to subsection (4) of this section, the proposals about the electoral system that are the subject of the indicative poll shall be submitted in the voting paper in form 1 in the Schedule to this Act. 15

(4) For the purposes of the indicative poll, the proposals listed under the heading “REFORM OPTIONS” in form 1 in the Schedule to this Act—

(a) Shall be listed in the voting paper in such order as is determined by lot by the Chief Electoral Officer; and 20

(b) Shall not be listed in the order set out in form 1 in the Schedule to this Act unless the result of the determination made under paragraph (a) of this subsection so requires. 25

(5) The day appointed under subsection (1) of this section shall be a Saturday not later than the 30th day of September 1992.

Cf. 1990, No. 3, s. 2 (1), (2), (3)

**4. Application of Electoral Act 1956**—Subject to the provisions of this Act and of any regulations made under this Act, the provisions of the Electoral Act 1956 and of any regulations made under that Act shall, as far as they are applicable and with the necessary modifications, apply as if the indicative poll were a poll of the electors of each electoral district for the return of a member of Parliament for the district, and the indicative poll shall be taken in the manner prescribed by that Act for the taking of such a poll of the electors of each electoral district. 30 35

Cf. 1990, No. 3, s. 2 (4) (a)

**5. Electoral rolls**—Subject to the provisions of this Act and of any regulations made under this Act, the electoral rolls for the time being in force under the Electoral Act 1956 shall be 40

deemed to be the rolls of electors for the purposes of the indicative poll.

Cf. 1990, No. 3, s. 2 (4) (b)

5     **6. Appropriation**—All expenses incidental to the taking of the indicative poll shall be paid out of money appropriated by Parliament for the purpose.

Cf. 1990, No. 3, s. 4

*Scrutineers*

10     **7. Nomination of scrutineers by electors in favour of proposal**—Any 10 or more electors who are in favour of any one proposal described either under the heading “VOTING SYSTEM PROPOSALS” or the heading “REFORM OPTIONS” in form 1 in the Schedule to this Act may by nomination paper under their hands nominate any 2 specified persons to appoint  
15 one scrutineer to act at each polling booth in the district in the interests of all electors who are in favour of the proposal.

Cf. 1990, No. 3, s. 5

20     **8. Nomination of scrutineers by electors not in favour of proposal**—Any 10 or more electors who are not in favour of any one proposal described either under the heading “VOTING SYSTEM PROPOSALS” or the heading “REFORM OPTIONS” may in the same manner as provided in section 7 of this Act nominate any 2 specified persons to appoint one  
25 all electors who are not in favour of the proposal.

Cf. 1990, No. 3, s. 6

**9. Form of nomination paper**—The nomination paper shall be in form 2 in the Schedule to this Act.

Cf. 1990, No. 3, s. 7

30     **10. Nomination paper to be lodged with Returning Officer**—The nomination paper shall be lodged with the Returning Officer of the electoral district not later than the twelfth day before polling day, and shall be open to public inspection.

35     Cf. 1990, No. 3, s. 8

**11. Returning Officer to select fit persons to appoint scrutineers**—On a day to be publicly notified by the Returning Officer of the electoral district, being not earlier than

the tenth nor later than the fifth day before polling day, the Returning Officer shall publicly consider all the nomination papers duly lodged, and, after hearing all objections, select 2 fit persons to appoint one scrutineer, and 2 fit persons to appoint the other scrutineer, to act at each polling booth in the respective interests as aforesaid; and the persons so selected may appoint accordingly. 5

Cf. 1990, No. 3, s. 9

**12. Selection to be in writing**—The selection shall be by writing under the hand of the Returning Officer, and shall be in form 3 in the Schedule to this Act. 10

Cf. 1990, No. 3, s. 10

**13. Appointments of scrutineers to be in writing**—The appointment shall in each case be by writing under the hands of the persons selected, and shall be in form 4 in the Schedule to this Act. 15

Cf. 1990, No. 3, s. 11

**14. Powers and rights of scrutineers**—Every scrutineer so appointed shall, for the purposes of the indicative poll, have all the powers and rights of a scrutineer under the Electoral Act 1956, and shall make a declaration in form 1 in the First Schedule to the Electoral Act 1956 (which form shall be used with all necessary modifications). 20

Cf. 1990, No. 3, s. 12

**15. Remuneration of scrutineers not expenses of poll**—The remuneration (if any) of the scrutineers shall not be expenses incidental to the taking of the indicative poll. 25

Cf. 1990, No. 3, s. 13

#### *The Ballot*

**16. Issue of voting papers**—Section 105 of the Electoral Act 1956 shall, for the purposes of the indicative poll, apply as if, for subsection (4), there were substituted the following subsection: 30

“(4) If the name of the elector appears in the rolls, the Deputy Returning Officer or a poll clerk authorised by the Deputy Returning Officer to issue ordinary voting papers shall then issue to the elector a voting paper after the Deputy Returning Officer or poll clerk has prepared it in the following manner: 35

- 5 “(a) Unless a consecutive number has been printed on the voting paper and on the counterfoil, or, if the voting paper is intended to be divided into 2 or more pieces, on each such piece and on the counterfoil, the Deputy Returning Officer or poll clerk shall enter on both the counterfoil and the voting paper, or on the counterfoil and on each such piece of the voting paper, as the case may require, in the spaces provided a number (called a consecutive number), beginning with the number 1 in the case of the first voting paper issued by or on behalf of the Deputy Returning Officer, and on all succeeding voting papers issued by or on behalf of the Deputy Returning Officer the numbers shall be consecutive, so that no 2 voting papers issued in the same booth (other than voting papers resulting from the division of one voting paper) shall bear the same number:
- 10
- 15
- 20 “(b) The Deputy Returning Officer or poll clerk shall firmly fix a piece of gummed paper over the consecutive number on the voting paper so as to conceal it effectively in each place where it appears:
- 25 “(c) On the counterfoil of the voting paper the Deputy Returning Officer or poll clerk shall write his or her initials, and the number appearing in the roll against the name of the elector preceded by the number of the page on which that name appears:
- 30 “(d) The Deputy Returning Officer or poll clerk shall place the official mark of the Deputy Returning Officer on the voting paper, or, where the ballot paper is intended to be divided into 2 or more pieces, on each such piece, so that the booth in which the voting paper or the piece of the voting paper was issued may be identified.”

35 **17. Method of voting**—(1) Every voter at the indicative poll shall vote by marking the voting paper with a tick within the circle immediately after the proposal for which the voter wishes to vote.

40 (2) Section 106 of the Electoral Act 1956 shall, for the purposes of the indicative poll, apply as if there were inserted, after subsection (2), the following subsection:

“(2A) Notwithstanding anything in subsection (2) of this section, where a voting paper is intended to be divided into 2 or more pieces, the voter shall, before leaving the inner compartment, divide the voting paper into those pieces, fold

each piece so that the contents cannot be seen, and then place each piece in the ballot box designated for that piece.”

Cf. 1990, No. 3, s. 3 (f)

**18. Spoilt ballot papers**—Section 107 (1) of the Electoral Act 1956 shall, for the purposes of the indicative poll, have effect as if there were substituted, for the words “not having deposited his ballot paper in the ballot box”, the words “not having deposited any part of the voter’s voting paper in the ballot box”.

*Declaration of Result by Returning Officer* 10

**19. Declaration of result of poll**—(1) Where all the voting papers have been dealt with in accordance with section 115 of the Electoral Act 1956 (as applied by this Act), the Returning Officer, having ascertained the total number of votes recorded for each proposal described in the voting paper under the heading “VOTING SYSTEM PROPOSALS” and for each proposal described in the voting paper under the heading “REFORM OPTIONS” shall declare the result of the poll by giving public notice thereof of the total number of votes recorded for each proposal. 15 20

(2) Where there is an equality of votes between—

(a) Any of the proposals described in the voting paper under the heading “VOTING SYSTEM PROPOSALS”; or

(b) Any of the proposals described in the voting paper under the heading “REFORM OPTIONS”,— 25

the Returning Officer shall forthwith apply to a District Court Judge for a recount under section 20 of this Act, and all the provisions of that section shall apply accordingly, except that no deposit shall be necessary.

(3) Section 116 of the Electoral Act 1956 shall not apply in relation to the indicative poll. 30

*Recount*

**20. Application to District Court Judge for recount**—If any result of the indicative poll is disputed on the ground that the public declaration by the Returning Officer in accordance with section 19(1) of this Act was incorrect, the following provisions shall apply: 35

(a) Any 6 electors may, within 3 working days after the public declaration, apply to a District Court Judge for a recount of the votes: 40

- (b) Every such application shall be accompanied by a deposit of \$200 (which deposit is inclusive of goods and services tax):
- 5 (c) The District Court Judge shall cause a recount of the votes to be commenced within 3 working days of receiving the application, and shall give notice in writing to the applicants and to any scrutineers appointed under **section 13** of this Act of the time and place at which the recount will be made:
- 10 (d) Section 117 (4) to (9) and section 118 of the Electoral Act 1956, so far as they are applicable and with the necessary modifications, shall apply to the recount.

Cf. 1990, No. 3, s. 14

*Declaration of Result by Chief Electoral Officer*

15 **21. Declaration of result**—(1) After the Returning Officer has made a public declaration in accordance with **section 19 (1)** of this Act, and after the time for an application for a recount has elapsed the Returning Officer shall send to the Chief Electoral Officer a statement of the number of informal votes and of the  
20 total number of electors casting valid votes and of the number of valid votes recorded for each proposal.

(2) On receipt of the statements from all Returning Officers and on or before a date to be fixed by the Governor-General by Order in Council, the Chief Electoral Officer shall ascertain and  
25 declare—

- (a) The total number of valid votes recorded for each proposal; and
- (b) The result of the poll as determined thereby.
- 30 (3) The Chief Electoral Officer shall notify in the *Gazette* the number of the votes cast in respect of each proposal as finally ascertained by the Chief Electoral Officer and the result of the poll as determined thereby.

Cf. 1990, No. 3, s. 15

*Publicity*

35 **22. Publicity for indicative poll**—(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 be used to promote one of  
40 the proposals in the indicative poll unless 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 or her place of residence or business.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who wilfully contravenes **subsection (1)** of this section.

(3) Nothing in this section shall restrict the publication of any news or comments relating to the indicative poll in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.

Cf. 1990, No. 3, s. 16

#### *Petitions*

**23. Sections of Electoral Act 1956 applied**—(1) The sections of the Electoral Act 1956 described in **subsection (2)** of this section, as far as they are applicable and with the necessary modifications, shall apply to a petition for an inquiry under **section 24** of this Act.

(2) The sections of the Electoral Act 1956 referred to in **subsection (1)** of this section are sections 158 to 160, 161, 162 (1), (2), (4), (5), 166, 167, 168, 173 to 181, 182 (1) (a) and (b), and 183.

Cf. 1990, No. 3, s. 18

**24. Petition for inquiry**—(1) Where any 50 electors in an electoral district are dissatisfied with the result of the indicative poll in their district, they may, within 20 working days after the Returning Officer has made a public declaration in accordance with **section 19 (1)** of this Act, file a petition in the High Court for an inquiry as to the conduct of the poll or of any person connected with it.

(2) If the petition complains of the conduct of a Returning Officer or Registrar of Electors, the person complained of shall be a respondent to the petition.

(3) The petition shall allege the specific grounds on which the complaint is founded, and no other grounds than those stated shall be investigated, except by leave of the Court and upon reasonable notice being given, which leave may be given upon such terms and conditions as the Court considers just:

Provided that evidence may be given that the total number of votes cast for any proposal was higher or lower than that given in the public declaration made pursuant to **section 19 (1)** of this Act.

(4) Such petition shall be in **form 5** in the Schedule to this Act, or to the like effect, and shall be filed in the registry of the High Court nearest to the place where the poll was held. The Registrar of the Court shall forthwith send a copy of the  
5 petition to the Returning Officer.

(5) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of Court.

Cf. 1990, No. 3, s. 19

10 **25. Who may be respondents**—Any 6 electors in the electoral district may, at any time not later than 3 working days before the commencement of the inquiry, file in the Court in which the petition is filed a notice in writing of their intention to oppose the petition, and thereupon the electors giving such  
15 notice shall be deemed to be respondents to the petition.

Cf. 1990, No. 3, s. 20

**26. Determination of Court as to result of indicative poll**—At the conclusion of the trial of a petition for an inquiry, the Court shall determine whether, by reason of some  
20 irregularity that in its opinion materially affected the result of the poll, the poll is void, or whether the number of votes recorded as being cast for any proposal contained in the public declaration made pursuant to **section 19 (1)** of this Act was wrong.

25 Cf. 1990, No. 3, s. 21

**27. Persons committing irregularities to be named in report**—(1) On such inquiry the Court shall report in writing to the Minister of Justice the names of all persons found to have  
30 been guilty of any irregularity at or in connection with the poll, and shall state in such report whether or not in the opinion of the Court any such irregularity tended to defeat the fairness of the poll, and whether or not such irregularity tended materially to affect the result thereof.

(2) Every person shall be guilty of an irregularity within the  
35 meaning of **subsection (1)** of this section who commits any offence described in **section 29** of this Act, whether or not that person is prosecuted for or convicted of any such offence.

Cf. 1990, No. 3, s. 22

40 **28. Fresh poll**—(1) Where any indicative poll is declared void under **section 26** of this Act, notice thereof shall be given by the Court to the Returning Officer, and a fresh poll shall, on a

day to be fixed by the Returning Officer, being not later than 30 working days after the date of such notice, be taken in the manner prescribed by this Act in the case of an indicative poll.

(2) At any such fresh indicative poll the same roll of electors shall be used as was used at the voided poll.

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Cf. 1990, No. 3, s. 23

*Miscellaneous Provisions*

**29. Offences**—Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 who, at an indicative poll,—

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(a) In any way interferes with an elector, either in the polling booth or while the elector is on the way to the polling booth, with the intention of influencing the elector or advising him or her as to his or her vote; or

(b) Prints or distributes or delivers to any person on the day of the poll, or at any time during the 3 days immediately preceding the poll, anything being or purporting to be in imitation of any voting paper to be used at the poll, together with any direction or indication as to how any person should vote, or in any way containing any such direction or indication; or

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20

(c) During the hours in which the poll is being taken, makes any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or other like means; or

25

(d) Obtains possession of or has in his or her possession any voting paper other than the one given him or her by the Returning Officer for the purpose of recording his or her vote, or retains any voting paper in his or her possession after leaving the polling booth; or

30

(e) Refuses or neglects to comply with, or commits any breach of any of the provisions of this Act, or misleads or gives any misdirection to a voter in any matter relating to the voter's vote; or

(f) Does or omits to do an act that if done or omitted to be done at an electoral poll would be an offence under the Electoral Act 1956.

35

Cf. 1990, No. 3, s. 24

**30. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

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- (a) Applying, with or without modifications, for the purposes of this Act, provisions of the Electoral Act 1956 and of any regulations made under that Act:
- 5 (b) Prescribing forms for the purposes of this Act:
- (c) Prescribing the time at which, and the manner in which, special voters may vote (whether at a polling place or not and whether in or outside New Zealand) at the indicative poll:
- 10 (d) Prescribing conditions upon or subject to which special voters may vote at the indicative poll:
- (e) Prescribing, for the purposes of the indicative poll, different methods of voting for different classes of special voters:
- 15 (f) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Cf. 1990, No. 3, s. 25

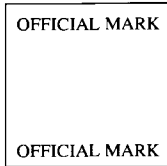
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**SCHEDULE**

Form 1

VOTING PAPER

**Section 3 (3)**



.....  
[Consecutive Number]

..... Electoral District

**Poll on the method of electing Members of Parliament**

*Directions*

(Read carefully before voting)

1. Vote for one of the voting system proposals by putting a tick in the circle immediately after the proposal you choose.
2. Then vote for one of the reform options by putting a tick in the circle immediately after the reform option you choose.
3. After voting, divide the voting paper by tearing it along the perforated line.
4. Fold each piece so that its contents cannot be seen and place it in the ballot box.
5. If you spoil this voting paper, return it to the officer who issued it and apply for another.
6. You must not take this voting paper out of the polling booth.

VOTING SYSTEM PROPOSALS



Vote Here

I VOTE TO RETAIN THE PRESENT FIRST-PAST-THE-POST SYSTEM	<input type="radio"/>	TICK ONE PROPOSAL
I VOTE FOR A CHANGE TO THE VOTING SYSTEM.	<input type="radio"/>	

Perforations



SCHEDULE—continued

Form 1—continued

OFFICIAL MARK
OFFICIAL MARK

.....  
[Consecutive Number]

..... Electoral District

If a majority of the votes cast in this poll are for the retention of the present first-past-the-post system, no further poll on the voting system will be held. If a majority of the votes cast in this poll are for a change, a further poll on the voting system will be held at the time of the next general election.

That poll would offer a choice between the present first-past-the-post system and the reform option that receives the most votes at this poll.

Indicate which of the following reform options you wish to see as the alternative to the present system if a second poll is held.

REFORM OPTIONS



Vote Here

I VOTE FOR THE PREFERENTIAL VOTING SYSTEM.	<input type="radio"/>
I VOTE FOR THE MIXED MEMBER PROPORTIONAL SYSTEM.	<input type="radio"/>
I VOTE FOR THE SUPPLEMENTARY MEMBER SYSTEM.	<input type="radio"/>

TICK ONE OPTION

NOTE\*

This form shall have a counterfoil in form 9 in the First Schedule to the Electoral Act 1956.

\*Not to be printed as part of the form.

SCHEDULE—continued

Form 2

Section 9

NOMINATION OF SCRUTINEERS FOR PURPOSES OF INDICATIVE POLL

1. For the purposes of the indicative poll to be taken in the ..... Electoral District on the ..... day of ..... 1992, we, the undersigned electors of the district, hereby nominate [*Full names, addresses, and occupations of the 2 persons nominated*] as fit persons to appoint one scrutineer to act at each polling booth in the interest of all electors who are in favour [*or, as the case may be, not in favour*] of the [*Specify proposal*].
2. In support of our nomination we hereby severally, each for himself or herself, solemnly and sincerely declare that we are, and we believe each of the persons nominated to be, honestly in favour [*or, as the case may be, not in favour*] of the proposal.

We severally make this solemn declaration conscientiously believing the same to be true, and by virtue of the Oaths and Declarations Act 1957.

Signature, Address, and Occupation

Severally declared by each of the  
 [*Number*] declarants whose signatures  
 are subscribed hereto, this  
 ..... day of .....  
 1992, before me—  
 .....  
 J.P. [*Solicitor,*  
*or as the case may be*].

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....
7. ....
8. ....
9. ....
10. ....

NOTE—Not less than 10 electors must sign.



SCHEDULE—continued

Form 3

Section 12

RETURNING OFFICER'S SELECTION FOR THE PURPOSES OF THE INDICATIVE POLL

Having considered the nominations duly lodged in this behalf, and having heard all objections thereto, I hereby select [Full names, addresses, and occupations of the 2 persons selected, etc. (as above)] as fit persons to appoint one scrutineer to act at each polling booth at the indicative poll for the ..... Electoral District on the ..... day of ..... 1992, in the interest of all electors who are in favour [or, as the case may be, not in favour] of the [Specify proposal].

Dated at ..... this ..... day of ..... 1992.

....., Returning Officer.

Form 4

Section 13

APPOINTMENT OF SCRUTINEERS FOR THE PURPOSES OF THE INDICATIVE POLL

To the Returning Officer.

For the purposes of the indicative poll for the ..... Electoral District to be taken on the ..... day of ..... 1992, we, the undersigned, being duly authorised in this behalf, hereby appoint the persons named in the Schedule hereto to act as scrutineers at the polling booths named in the Schedule, in the interest of all electors who are in favour [or, as the case may be, not in favour] of the [Specify proposal].

SCHEDULE

Scrutineer	Polling Booth
[Full name, address, and occupation of the scrutineer]	[Name of polling booth]

Dated at ..... this ..... day of ..... 1992.

[Signatures of the 2 persons authorised to appoint].



SCHEDULE—*continued*

Form 5

Section 24 (4)

## PETITION FOR INQUIRY AS TO RESULT OF INDICATIVE POLL

In the matter of an indicative poll held in the ..... Electoral District on the ..... day of ..... 1992.

The petition of the undersigned electors of the ..... Electoral District, namely, A.B. of ....., C.D., of ....., etc.

1. Your petitioners state that the indicative poll was held on the ..... day of ..... 1992, and that the Returning Officer has given public notice that the total number of votes recorded for the proposal that [*specify*] was [*specify*].
2. And your petitioners say that [*State the facts and grounds on which the petitioners rely*].

Wherefore your petitioners pray that it may be determined that the total number of votes cast for the proposal was higher (*or* lower) than that given in the public notice [*or* that the poll was void].

A.B.,  
C.D.,  
etc.