

Electoral (Racially-based Representation) Referendum Bill

Member's Bill

Explanatory note

This bill provides for the holding of a referendum on whether representation in Parliament and local government should be based on racial differentiation.

The referendum is designed to indicate if electors wish to maintain an electoral system where constituency seats are allocated according to racial differentiation such as the Maori seats and whether this system should be extended to local government level.

Clause by clause analysis

Clause 1 relates to the title.

Clause 2 provides for the bill's commencement on the day after the date on which it receives the Royal assent.

Clause 3 sets out the purpose of the bill.

Clause 4 provides for the holding of a referendum on whether electoral systems in both local and central government should be racially-based as soon as practicable after this bill receives the Royal assent.

Clause 5 applies any necessary provisions of the Electoral Act 1993 to the holding of the referenda.

Clause 5 and *clauses 6 to 13* provide for the appointment of Returning Officers and scrutineers.

Clauses 14 to 16 provide for the taking of the ballot.

Clauses 17 to 18 provide for the declaration of the results and recounts.

Clause 19 provides for an electoral petition in the event of a disputed result.

Clauses 20 to 22 relate to the determination of the High Court on an electoral petition.

Clause 23 provides for the holding of a fresh referendum if the High Court declares the referendum result void.

Clauses 24 to 25 contain provisions relating to influencing voters, and the display of emblems, logos etc.

Clause 26 contains offence provisions.

Clause 27 provides for regulation-making powers in relation to the holding of the referenda.

The Schedule contains the forms for the referenda, the nominations and appointment of scrutineers, and an electoral petition.

Hon Ken Shirley

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electoral (Racially-based Representation) Referendum Act.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to provide for the holding of a referendum on whether electoral systems should be racially-based in—

- (a) elections to Parliament; and
- (b) elections to local government.

*Referendum***4 Referendum of electors on racially-based electoral systems.**

- (1) As soon as possible after the commencement of this Act a referendum of electors of each electoral district (within the meaning of the Electoral Act 1993) must be taken on proposals about the electoral system. 15
- (2) For the purposes of this Act, the referendum required by **subsection (1)** is referred to in this Act as the **referendum**.
- (3) The proposals that are the subject of the referendum are to be submitted in the voting paper in **form 1** in the **Schedule** and ask,— 20
 - (a) in the case of the first question specified in that form,—
 - (i) whether electors wish to retain racially-based representation in Parliament; or
 - (ii) whether electors wish to abolish racially-based representation in Parliament. 25
 - (b) in the case of the second question specified in that form,—
 - (i) whether electors wish to introduce a racially-based electoral system in local government; or 30
 - (ii) whether electors wish to retain a non racially-based electoral system in local government.
- (4) The results of the referendum must be referred to the House of Representatives if— 35
 - (a) more than two-thirds of electors vote in favour of removing racially-based representation in Parliament, or

- (b) more than two-thirds of electors vote against the introduction of racially-based representation in local government.

General provisions

- 5 Application of Electoral Act 1993** 5
- (1) Subject to the provisions of this Act and of any regulations made under this Act, the provisions of the Electoral Act 1993 and of any regulations made under that Act, as far as they are applicable and with any necessary modifications, apply as if the referendum conducted under **section 4** were an electoral poll. 10
- (2) The provisions of the Electoral Act 1993 and of any regulations made under that Act, unless the context otherwise requires, apply for the purposes of the referendum as if all references to the ballot paper were references to the voting paper. 15
- (3) No writ is issued under the Electoral Act 1993 for the conduct of the referendum.
- 6 Provisions subject to which referendum to be taken** 20
- For the purposes of conducting the referendum,—
- (a) the Returning Officer of the electoral district must be the Returning Officer, and the Deputy Returning Officers appointed by the Returning Officer for the taking of the electoral poll must be the Deputy Returning Officers, for the taking of the referendum: 25
- (b) the poll clerks, interpreters, and ushers appointed for the taking of the electoral poll must, by virtue of being so appointed, be, in addition, poll clerks, interpreters and ushers for the taking of the referendum:
- (c) the polling booths in each electoral district for the taking of the electoral poll must be the same as those used for the taking of the referendum. 30

Scrutineers

- 7 Nomination of scrutineers by electors in favour of proposal**
- (1) Any 10 or more electors who are in favour of any of the proposals for the purposes of the referendum, described under the heading “Voting system proposals” in **form 1** in the **Schedule** may by nomination paper under their hands nominate any 2 specified persons to appoint 1 scrutineer to act at each polling booth in the district in the interests of all electors who are in favour of that proposal. 5
10
- (2) The nomination paper must be in **form 2** in the **Schedule**.
- 8 Nomination paper to be lodged with Returning Officer**
The nomination paper must be lodged with the Returning Officer of the electoral district not later than the twelfth day before the date fixed for the holding of the referendum or before polling day, as the case may be, and must be open to public inspection. 15
- 9 Returning Officer to select fit persons to appoint scrutineers**
- (1) On a day to be publicly notified by the Returning Officer for the electoral district, but not earlier than the tenth day nor later than the fifth day before the day set for the holding of the referendum or before polling day, as the case may be, the Returning Officer must publicly consider all the nomination papers lodged. 20
25
- (2) The Returning Officer must, after hearing all objections, select 2 fit persons to appoint 1 scrutineer to act at each polling booth in the interests of all electors; and the persons so selected may appoint accordingly.
- 10 Selection to be in writing** 30
The selection of scrutineers under **section 9(2)** must be signed by the Returning Officer and must be in **form 3** in the **Schedule**.
- 11 Appointments of scrutineers to be in writing**
The appointment of scrutineers under **section 9(2)** must in each case be signed by the persons selected, and must be in **form 4** in the **Schedule**. 35

12 Powers and rights of scrutineers

- (1) Every scrutineer who is appointed has, for the purposes of the referendum, all the powers and rights of a scrutineer under the Electoral Act 1993, and must make a declaration in form 1 in the Second Schedule of the Electoral Act 1993 (which form must be used with all necessary modifications). 5
- (2) Without limiting **subsection (1)**, a scrutineer—
- (a) may be present at the office of the Registrar of Electors when the Registrar of Electors is performing his or her duties under section 172 of the Electoral Act 1993 (as applied by this Act) in relation to declarations in respect of special votes, but not more than 1 such scrutineer per proposal may be present at the office of the Registrar of Electors at any time; and 10
- (b) may be present at the scrutiny of the rolls conducted by the Returning Officer under section 175 of the Electoral Act 1993 (as applied by this Act), but only 1 such scrutineer per proposal, or such greater number as is permitted by the Returning Officer, may be present at the scrutiny of the rolls at any time. 15
20

13 Remuneration of scrutineers not expenses of referendum

The remuneration (if any) of the scrutineers must not be paid out of money appropriated by Parliament for the purpose of conducting the referendum.

The ballot 25

14 Method of voting

- (1) Every voter at the referendum must vote by marking the voting paper with a tick within the circle immediately after the proposal for which the voter wishes to vote.
- (2) Where a voting paper is or is intended to be divided into 2 or more pieces, the voter must, before leaving the inner compartment, fold each piece in the ballot box designated for this purpose. 30

15 Spoilt ballot papers

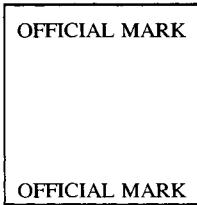
Section 169 of the Electoral Act 1993 has effect for the purposes of the referendum as if there were substituted, for the words “not having deposited his or her ballot paper in the 35

- (i) the provisions of sections 174 to 177, and of sections 187 to 190 of the Electoral Act 1993:
 - (ii) the provisions of any regulations made under the Electoral Act 1993:
 - (iii) prescribing forms for the purposes of this Act: 5
 - (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 referendum:
 - (d) prescribing conditions upon or subject to which special voters may vote at the referendum: 10
 - (e) prescribing different methods of voting for different classes of special voters:
 - (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. 15
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Schedule

ss 4, 7, 10, 11, 21

Form 1
Voting paper



..... 5
[Consecutive Number]

.....Electoral District

Directions

(Read carefully before voting) 10

1. The voting paper for this referendum consists of 2 separate pieces. This piece (part A) contains the voting system proposals. The second piece (Part B) contains the reform options.
2. To vote in this referendum, you must vote for 1 of the voting system proposals. You may, but you do not have to, vote for 1 of the reform options. 15
3. Vote for 1 of the voting system proposals by putting a tick in the circle immediately after the proposal you choose.
4. If you wish to vote for 1 of the reform options, put a tick in the circle immediately after the reform option you choose. 20
5. Fold each piece so that its contents cannot be seen and place it in the ballot box.
6. If you spoil either of the pieces of this voting paper, return both pieces to the officer who issued them and apply for another voting paper.
7. You must not take either of the pieces of the voting paper out of the polling booth. 25

Form 1—*continued*

Voting system proposals

QUESTION ONE: PARLIAMENT



Vote here

I VOTE TO RETAIN RACIALLY-BASED ELECTORAL REPRESENTATION IN PARLIAMENT	<input type="radio"/>
I VOTE FOR A REMOVAL OF RACIALLY-BASED ELECTORAL REPRESENTATION IN PARLIAMENT	<input type="radio"/>

TICK ONE
PROPOSAL

QUESTION TWO: LOCAL GOVERNMENT



Vote here

I VOTE TO SUPPORT THE INTRODUCTION OF RACIALLY-BASED ELECTORAL REPRESENTATION IN LOCAL GOVERNMENT	<input type="radio"/>
I VOTE AGAINST THE INTRODUCTION OF RACIALLY-BASED ELECTORAL REPRESENTATION IN LOCAL GOVERNMENT	<input type="radio"/>

TICK ONE
PROPOSAL

.....perforations.....

Form 2
Nomination of scrutineers for purposes of referendum

1. For the purposes of the referendum to be taken in the
Electoral District on the day of 5
2, 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 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 10
each of the persons nominated to be, honestly 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	15
	1.	
	2.	
	3.	
Severally declared by each of the	4.	20
[Number] declarants whose	5.	
signatures are subscribed hereto,	6.	25
this day of	7.	
2....., before me—	8.	
.....	9.	30
JP [Solicitor, or	10.	
as the case may be].		

NOTE—Not less than 10 electors must sign.

Form 3

Returning Officer's selection for purposes of referendum

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 referendum for the 5
Electoral District on the day of 2....., in the interest of all electors who are in favour of the [Specify proposal].

Dated at this day of 2.....

....., Returning Officer. 10

Form 4

Appointment of scrutineers for purposes of referendum

To the Returning Officer

For the purposes of the referendum for the Electoral District to be taken on the day of 2..... 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 of the [Specify proposal].

SCHEDULE 10

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

Dated at this day of 2.....
[Signatures of the 2 persons authorised to appoint]. 15

**Form 5
Petition for inquiry as to result referendum**

In the matter of the referendum held in the Electoral District on the day of 2..... The petition of the undersigned electors of the Electoral District, namely, A.B, of, C.D, of, etc.

5

1. Your petitioners state that the referendum was held on the day of 2....., and that the Returning Officer has given public notice that the total number of votes recorded for the proposal that [Specify] was [Specify].

10

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 referendum was void].

15

A B,C D,etc