

LOCAL ELECTIONS (SINGLE TRANSFERABLE VOTE OPTION) BILL

AS REPORTED FROM THE ELECTORAL LAW COMMITTEE

COMMENTARY

Recommendation

The Electoral Law Committee has examined the Local Elections (Single Transferable Vote Option) Bill and recommends that it be passed with the amendments shown in the bill.

In order that the bill be able to apply to the 1998 local body elections, we recommend that it be passed through its remaining stages in the House of Representatives as soon as possible. The recommended amendments will require that the bill be enacted before 28 February 1997 if local authorities are to be able to resolve to use the Single Transferable Vote (STV) electoral system for that election. Enactment before 7 March will be required if electors are to be able to demand a poll on STV, but enactment by 8 May 1997 would still allow a binding poll at the instigation of the local authority. Accordingly, we recommend that the bill be passed by 1 February 1997.

Conduct of the examination

The Local Elections (Single Transferable Vote Option) Bill is a member's bill promoted by Richard Northey. It was introduced and referred to the Electoral Law Committee on 19 July 1995. The eventual closing date for submissions was 10 December 1995. The committee received and considered 78 submissions from local authorities and other interested groups and individuals. We heard 10 submissions orally. Three hours and 30 minutes were spent on the hearing of evidence and consideration took two hours and thirty minutes.

On 31 July 1996 the committee established a subcommittee to consider the bill. The members of the subcommittee were Richard Northey (Chairperson) and Hon. David Caygill. The subcommittee spent two hours considering the bill and reported its findings to the committee on 21 August 1996.

Advice was received from the Department of Internal Affairs.

This commentary sets out the details of our consideration of the bill and the major issues addressed by the committee. All amendments to the bill were made

unanimously. The amendments to the bill are more complex than we consider desirable. However, we feel that this is a consequence of the complicated nature of the Local Elections and Polls Act 1976. We welcome the fact that the Department of Internal Affairs has undertaken a project relating to the consolidation and replacement of the Act.

Background

The bill introduces an option for local authorities or their electors to adopt the STV voting procedure for the election of members of local authorities. The bill provides an optional alternative to the first past the post (FPP) system provided by the Local Elections and Polls Act 1976.

There has been a growing level of interest in alternative voting systems to FPP since the 1986 Royal Commission on the Electoral System. Some local bodies and lobby groups have expressed support for the use of the STV electoral system in local elections. The Local Government Association supports the concept of providing local bodies with the option of using the STV system.

STV system

STV is a form of proportional representation under which voters choose their representatives from a number of candidates. Candidates must obtain a set quota of votes in order to be elected. Each voter has a single vote which is transferable in accordance with the preferences of that voter. The vote is preferential, with the voter indicating his or her preferences for one or more candidates on the ballot paper. Votes for candidates who exceed the quota required for election and votes for candidates with no possibility of election are transferred to other candidates until the required number of candidates is elected.

STV is neutral in terms of whether electors support a candidate based on that candidate personally or on the candidate's party affiliation. Because of this neutrality we think it is an appropriate form of proportional representation to apply to local authority elections where many candidates in some local authority areas belong to political parties while such party affiliations are entirely absent in other areas. We consider STV to be a more appropriate form of proportional representation to apply to local elections than Mixed Member Proportional (MMP). MMP, because of its use of list candidates, is suited only to elections centring around political parties.

Procedure to change voting method

Clause 3 of the bill provides for a local authority to adopt the STV electoral option by resolution.

Change by resolution of a local authority

We believe that a more coherent and precise procedure for the adoption of STV than that contained in the bill is desirable. We recommend that the first step be to allow local authorities to resolve to adopt STV for the next triennial elections. In order to allow an opportunity for electors to demand a poll on that decision, and for that poll to be held before the triennial review of ward/constituency boundaries and membership, the deadline for such resolutions must be 28 February in the year before the election. Unless a poll is held on the issue (see below), the resolution will be binding in respect of that election, and once adopted STV will continue to be used unless or until there is a resolution or poll to change to FPP at a subsequent election.

Change by poll of electors

Clauses 14 and 15 of the bill provide for a petition of electors to demand a poll on the voting method to be used at the next triennial election, but this procedure would have been separate from, and prior to, any local authority resolution on the issue. We believe that the opportunity to demand a poll should arise after, and in response to, a resolution by the local authority or the absence of such a resolution. Therefore, we recommend that new clause 3c be inserted to enable electors to demand a public poll be held on the voting system to be used for subsequent elections. The notice demanding a poll must be signed by at least five percent of electors and, where more than 50 percent of the votes under the poll support the adoption of a different voting system from the one used at the last election, that different system must be used. The result of the poll overrides a resolution made by a local authority regarding the electoral system. In order to avoid the uncertainty and expense of conducting a poll prior to each election we recommend that the result of a poll preclude changing the electoral system until two elections have been held under the voting system adopted by the poll.

Regional councils and territorial authorities to make separate decisions over adoption of STV option

Submissions from city, regional and district councils raised the concern that voters may be confused if regional councils and territorial authorities in the same area adopt different voting systems. Regional council elections are conducted by the relevant territorial authority and voting papers for the two elections are often combined.

Conducting regional council and territorial authority elections together with shared resources is an efficient approach to local authority elections. We accept that the use of different voting systems has the potential to cause confusion among voters but clear instructions on the ballot paper would mitigate against this.

Application of STV to other elections under the Local Elections and Polls Act 1976

The Local Elections and Polls Act 1976 currently governs the elections of regional councils and territorial authorities (including their community boards). In addition it governs the election of licensing trusts, the Auckland Regional Services Trust, and other miscellaneous local authorities. We considered the application of the bill to these latter bodies. Our findings are set out below.

Auckland Regional Services Trust

We have concluded that STV should be available for territorial authorities and regional councils and that regional councils should determine which method they wish to use independently of the territorial authority. The Auckland Regional Services Trust is deemed, by the Local Government Act 1974, to be a regional council for the purposes of the Local Elections and Polls Act 1976. Therefore, we consider it appropriate that the Trust be able to adopt STV independently and we recommend accordingly.

Licensing trusts

Licensing trusts are separate and independent local authorities whose boundaries sometimes overlap those of territorial authorities. Accordingly, we recommend that STV should be able to be adopted independently by licensing trusts for trust elections.

Other local authorities

The Greytown District Trust Lands Trustees and Masterton Trust Lands Trust are currently the only other local authorities subject to the Local Elections and Polls Act 1976. These are single purpose bodies, each elected entirely within the district of one territorial authority. We do not believe it necessary or desirable that such bodies be able to have a different voting method from the territorial authority. We recommend that any local authorities within the district of territorial authorities shall be elected using the same voting method as the relevant territorial authority.

STV option to apply to community board elections

Submissions stated that the bill should explicitly provide for the STV option to apply to community board elections. The Electoral Reform Coalition also submitted that the bill should apply to the election of school Boards of Trustees. We agree that the bill should apply to community board elections and recommend that the bill be amended to make it explicit that community board elections shall be conducted using the same voting method as their parent territorial authority. The elections of school Boards of Trustees are governed by the Education (Trustee Elections) Regulations 1992 rather than the Local Elections and Polls Act 1976 to which this bill relates. Therefore we declined to amend the bill to apply it to the election of school Boards of Trustees as this issue is outside the purpose of the bill.

Postal voting

Clause 3(4) of the bill requires that all elections held under the provisions of the bill be conducted by postal vote. Postal voting is the most common means of conducting local authority elections and it was universally used in the 1995 elections. However, we found no reason why legislation should require postal voting for STV elections any more than for FPP elections. We are aware that the development of new technology may eventually supersede the common use of postal voting. For these reasons we recommend that the bill be amended so that it does not specifically require postal voting.

Procedures after close of voting

Clause 6 of the bill sets out the procedure to apply after the close of voting. We recommend that the bill be amended to deal with elections of territorial authorities and regional councils. It is conceivable that these two bodies could use different voting systems and each body has its own returning officers. To avoid complication and because it is not possible to conduct multiple independent counts of the vote under a STV system, we recommend that the bill require the territorial authority returning officer to count first preferences on ballot papers, carry out scrutiny of the electoral roll and check special votes on behalf of a regional council. Valid regional council voting papers will then be forwarded to the regional council returning officer to enable that officer to announce a provisional result and to undertake the final official count.

Provisions relating to extraordinary vacancies

Clause 12 of, and the Third Schedule to, the bill provide for extraordinary vacancies to be filled by a recount of all votes cast in the election in which the vacating member was elected. By-elections will only be necessary for mayoral vacancies or when none of the unsuccessful candidates from the last election wish to, or are able to, fill the vacancy.

Thirteen submissions commented on the provisions relating to extraordinary vacancies. The majority of the submissions argued that the extraordinary vacancy

provisions were undemocratic in that they restricted potential candidates to those who stood at the last election.

We recommend that the bill be amended to allow a recount of STV voting papers where an extraordinary vacancy has occurred and the local authority is empowered to fill it by appointment. When STV is used, such a recount is necessary to determine who would have been the next successful candidate.

Our consideration of this issue has also led us to believe that amendments to the provisions of the Local Government Act 1974 and Sale of Liquor Act 1989 relating to the filling of vacancies by appointment are desirable. Under both of these Acts, electors have an opportunity to demand a by-election when a council or licensing trust resolves to fill the vacancy by appointment. We consider it is more democratic and transparent to require that resolution to identify the person to be appointed, and for the public notice of that resolution to also state the basis on which he or she was selected. While we believe such amendments are desirable, they fall outside the scope of the bill. Therefore, we recommend that the committee of the whole House amend the bill to give effect to the proposed amendments to the Local Government Act 1974 and the Sale of Liquor Act 1989. The drafting of these proposed amendments is attached to this commentary as Appendix A.

Minimum number of ward candidates

The bill amends the Local Government Act 1974 by inserting a provision which states that the number of members to be elected in any electoral area pursuant to the bill shall be not less than three. The only exceptions to this are certain local authority wards specified in the Local Government Act 1974.

A large number of submissions opposed this provision as it was perceived to disadvantage rural areas where it is less likely that there will be three members. Submissioners also felt that the provision would reduce or negate the representation of communities of interest. We considered this issue and concluded that electoral boundaries corresponding to communities of interest are not necessary to provide effective electoral representation. However, ward size does not just relate to electoral representation but it facilitates ongoing contact between citizens and their elected representatives.

We recommend that clause 17 be omitted to allow wards or constituencies of less than three members to be covered by the bill. Single member ward elections will effectively be conducted by preferential voting where the STV system has been adopted. We recommend that the bill be amended to provide that the type of voting system used will be considered in determining ward size and membership of wards.

Procedures in bill to be generally consistent with Local Elections and Polls Act 1976

In general, the STV election procedures and regulations follow those set out in the Local Elections and Polls Act 1976 except where STV requires a different provision. This principle underpins many of the recommended amendments to the bill and was applied to our decision not to require postal voting for STV elections, as the Act does not require it for FPP elections.

Proposed clause 21

21. Election to fill extraordinary vacancy in local authority—
 (1) Section 51 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) That the vacancy shall be filled by the appointment of a person named in that resolution, who shall be a person qualified to be elected to be a member of the local authority who has given his or her written consent to that appointment.”.

(2) Section 51 (5) of the principal Act (as substituted by section 14 (4) of the Local Elections and Polls Amendment Act 1992) is hereby amended by omitting the words “an appointment to be made by the local authority”, and substituting the words “the appointment of a person named in the resolution”.

(3) Section 51 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) Where a territorial authority or regional council gives public notice, under subsection (5) of this section, of an appointment under **subsection (1) (b)** of this section, that public notice shall include the name of the person appointed and a statement of the basis on which that person was selected.”

(4) Section 51 (7) of the principal Act (as amended by section 14 (5) of the Local Elections and Polls Amendment Act 1992) is hereby amended by omitting the words “make an appointment to fill the vacancy”, and substituting the words “confirm the appointment of the person named in the resolution under **subsection (1) (b)** of this section”.

(5) Section 51 of the principal Act is hereby amended by inserting, after subsection (7), the following subsection:

“(7A) Where, before the meeting referred to in subsection (7) of this section, any person named in a resolution under **subsection (1) (b)** of this section—

“(a) Dies or becomes incapable under any Act of holding the office to which he or she is to be appointed; and

“(b) Would, but for that death or incapacity, have been confirmed in that appointment at that meeting,—

the provisions of this section shall apply as if a fresh extraordinary vacancy had occurred in that office.

(6) Notwithstanding anything to the contrary in this section, where, before the commencement of this section, a local authority has been notified of an extraordinary vacancy under section 51 (1) of the principal Act, that section shall apply to the extraordinary vacancy as if it had not been amended by **subsections (1) to (5)** of this section.

Proposed clause 24(2)

(2) Notwithstanding anything to the contrary in this section, where, before the commencement of this section, a territorial authority or regional council has been notified of an extraordinary vacancy under section 101ZC (1) of the Local Government Act 1974, that section and section 101ZD of that Act shall apply to that extraordinary vacancy as if those sections had not been amended by **subsection (1)** of this section.

Proposed amendments to Local Government Act 1974 and Sale of Liquor Act 1989 in Fourth Schedule

1974, No. 66—The Local Government Act 1974 (R.S. Vol. 25, p. 1)

By repealing paragraph (b) of section 101ZC (1), and substituting the following paragraph:

“(b) That the vacancy shall be filled by the appointment of a person named in that resolution, who shall be a person qualified to be elected to be a member of the territorial authority or regional council who has given his or her written consent to that appointment; or”.

By omitting from section 101ZC (5) the words “an appointment to be made by the local authority”, and substituting the words “the appointment of a person named in the resolution”.

By adding to section 101ZC the following subsection:

“(6) Where a territorial authority or regional council gives public notice, under subsection (5) of this section, of an appointment under subsection (1) (b) of this section, that public notice shall include a statement of the basis on which the person to be appointed was selected.”

By omitting from section 101ZD (2) the words “make an appointment to fill the vacancy”, and substituting the words “confirm the appointment of the person named in the resolution under section 101ZC (1) (b) of this Act”.

By inserting in section 101ZD, after subsection (2), the following subsection:

“(2A) Where, before the meeting referred to in subsection (2) of this section, any person appointed under section 101ZC (1) (b) of this Act—

“(a) Dies or becomes incapable under any Act of holding the office to which he or she is to be appointed; and

“(b) Would, but for that death or incapacity, have been confirmed in that appointment at that meeting,—

the provisions of this Act shall apply as if a fresh extraordinary vacancy had occurred in that office.”

1989, No. 63—The Sale of
Liquor Act 1989

By omitting paragraph (c) of section 202 (1),
and substituting the following paragraph:

“(c) That the vacancy shall be filled by
the appointment of a person
named in that resolution, who
shall be a person qualified to be
elected to be a member of the
licensing trust who has given
his or her written consent to
that appointment.”

KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act.)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Richard Northey

**LOCAL ELECTIONS (SINGLE TRANSFERABLE VOTE
OPTION)**

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A BILL INTITULED

An Act to establish an optional alternative voting procedure to that provided by the Local Elections and Polls Act 1976

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

1. Short Title and commencement—(1) This Act may be cited as the Local Elections (Single Transferable Vote Option)

Act 1995, and shall be read together with and deemed part of the Local Elections and Polls Act 1976* (hereinafter referred to as the principal Act).

*R.S. Vol. 28, p. 683
1992, No. 105, s. 56 (2); 1993, No. 23, s. 32; 1993, No. 87, ss. 2, 274–281; 1994, No. 145

Struck Out (Unanimous)

(2) This Act shall come into force on the day after the date 5
on which it receives the Royal assent.

New (Unanimous)

(2) This Act shall come into force on the **1st day of February 1997**.

Struck Out (Unanimous)

2. Interpretation—In this Act, unless the context otherwise 10
requires,—

“Close of voting”, in relation to any election, means the
hour of 12 noon on the date of the election:

“Election” has the same meaning as in section 2 of the 15
principal Act:

“Electoral area” means a subdivision of a local
government area for electoral purposes:

“Eligible elector”, in relation to an electoral petition,
means an elector whose name appears on the roll of 20
electors of a local authority that is in force on the
date on which the signatures to the petition are
checked by the principal administrative officer:

“Local authority” has the same meaning as in section 2 of
the principal Act:

“Local government area” has the same meaning as in 25
section 2 of the principal Act:

“Mark” means a figure, a word written in the English or
Maori language, or a mark such as “√” or “X”.

New (Unanimous)

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

5 “First preference” has the meaning given to it in the definition of the term “preference” in **clause 1 of the Second Schedule** to this Act:

“Quota” has the meaning given to it by **clause 1 of the Second Schedule** to this Act:

10 “Total number of votes”, in relation to a candidate, means the total number of votes, including first preference votes and transferred votes, credited to any candidate at the stage of the count at which he or she is excluded from the election or at the last stage of that count, as the case may be:

15 “Transferred vote” has the meaning given to it by **clause 1 of the Second Schedule** to this Act.

(2) Terms used in this Act have the meanings given to them by the principal Act, unless the context otherwise requires.

PART I

20 DECISION TO USE SINGLE TRANSFERABLE VOTE SYSTEM

Struck Out (Unanimous)

3. Elections to be held under this Act—(1) Section 3 of the principal Act is hereby amended by adding the words “or by the Local Elections (Single Transferable Vote Option) Act 1995, as the case may be”.

25 (2) Any local authority may by resolution adopt the provisions of this Act with respect to all elections of a member or members of that local authority.

30 (3) Such resolution shall follow the appropriate processes provided in sections 101H to 101M of the Local Government Act 1974.

(4) All elections held under this Act shall be conducted by postal vote and the provisions of Part III of the principal Act shall apply except where amended by this Act.

35 (5) Except as provided by this Act, the provisions of the principal Act relating to the election of a member or members of a local authority shall apply to elections held under this Act.

New (Unanimous)

3. Territorial authority, regional council, or licensing trust may resolve to change voting method—(1) Subject to **section 3B** of this Act, any territorial authority, regional council, or licensing trust may, not later than the 28th day of February in the year immediately preceding the year in which the next triennial general election is to be held, resolve that that triennial general election of the territorial authority, regional council, or licensing trust shall be held under this Act. 5

(2) Subject to **section 3B** of this Act, where the immediately preceding general election of any territorial authority, regional council, or licensing trust was held under this Act, the territorial authority, regional council, or licensing trust may, not later than the 28th day of February in the year immediately preceding the year in which the next triennial general election is to be held, resolve that that triennial general election of the territorial authority, regional council, or licensing trust shall not be held under this Act. 10 15

(3) Where the territorial authority, regional council, or licensing trust makes a resolution under this section, every public notice required by **section 3B (1)** of the principal Act shall include— 20

(a) Notice of that resolution; and

(b) A statement that a poll is required to countermand that resolution. 25

(4) Subject to **subsection (5)** of this section, every resolution under this section shall—

(a) Take effect from the next triennial general election of members of the territorial authority, regional council, or licensing trust; and 30

(b) Continue in effect until a further resolution under this section.

(5) Where, subsequent to any resolution under this section, a poll of the electors of any territorial authority, regional council, or licensing trust is held under **section 3D** of this Act, that resolution shall cease to have any effect. 35

3A. Territorial authority, regional council, or licensing trust may resolve to hold poll—(1) Subject to **section 3B** of this Act, any territorial authority, regional council, or licensing trust may, not later than the 8th day of May in the year immediately preceding the year in which the next triennial general election 40

New (Unanimous)

is to be held, resolve that a poll shall be held under **section 3D** of this Act.

5 (2) The principal administrative officer shall, as soon as is practicable, give notice to the Returning Officer of any resolution under **subsection (1)** of this section.

10 **3B. Limitation on resolutions**—Nothing in **section 3** or **section 3A** of this Act shall apply where a poll of electors was held under **section 3D** of this Act in respect of the voting method to be used at the immediately preceding triennial general election of members of the territorial authority, regional council, or licensing trust.

3c. Electors may demand poll—(1) In this section,—

15 “Demand” means a demand to which **subsection (2)** of this section refers:

20 “Specified number of electors”, in relation to a territorial authority, regional council, or licensing trust, means a number equal to 5 percent of the number of electors who were enrolled as eligible to vote in the immediately preceding general election of members of the territorial authority, regional council, or licensing trust.

25 (2) Not less than the specified number of electors of a territorial authority, regional council, or licensing trust may demand that a poll be held on the voting method to be used for the next 2 triennial general elections of that territorial authority, regional council, or licensing trust.

30 (3) A demand shall be made by signed notice in writing delivered at the principal office of the territorial authority or regional council or licensing trust, not later than 22 working days after the date of the public notice required to be given by **section 3B (1)** of the principal Act.

(4) An elector may sign a demand and be counted as 1 of the specified number of electors only if—

35 (a) The name of that elector appears,—

(i) In the case of a territorial authority, on the roll of the territorial authority; or

(ii) In the case of a regional council or a licensing trust, on the roll of any territorial authority as the

New (Unanimous)

- name of a person eligible to vote in an election of that regional council or licensing trust; or
- (b) Where the name of that elector does not appear on a roll in accordance with **paragraph (a)** of this subsection,— 5
- (i) The name of the elector is included on the most recently published electoral roll for the Parliamentary electorate; and
- (ii) The address in respect of which the elector is registered as a Parliamentary elector is within the relevant territorial authority district, region, or licensing trust district; or 10
- (c) A Registrar of Electors under the Electoral Act 1993 confirms that the elector who signed the demand is registered as a Parliamentary elector in respect of an address that is within the relevant territorial authority district, region, or licensing trust district; or 15
- (d) In the case of a territorial authority or regional council, the elector has enrolled, or been nominated, as a ratepayer elector and is qualified to vote as a ratepayer elector in elections of the territorial authority or regional council. 20
- (5) Every person who signs a demand shall clearly state, against the signature,—
- (a) The person's name; and 25
- (b) The address in respect of which the person is qualified as an elector of the territorial authority, regional council, or licensing trust; and
- (c) In the case of a demand relating to a regional council or licensing trust, the territorial authority district within which that address is situated. 30
- (6) Within 30 days after receiving a demand bearing the signatures of not less than the specified number of electors, the principal administrative officer shall give notice to the Returning Officer that a poll is to be held. 35
- 3D. Poll of electors**—(1) Where the Returning Officer for a territorial authority, regional council, or licensing trust receives a notice under **section 3A (2)** or **section 3c (6)** of this Act, the Returning Officer shall, not later than 7 days after receipt, give public notice of the date of the poll. 40

New (Unanimous)

(2) The date appointed for the poll shall be a date not later than 75 days after the day on which the public notice under **subsection (1)** of this section is first published.

5 (3) Every poll under this section shall be held under the principal Act and, except as provided in **subsection (4)** of this section, shall be held on the proposal that the next 2 general elections of the territorial authority, regional council, or
10 licensing trust shall be held using the voting method known as the single transferable vote system as provided in the **Local Elections (Single Transferable Vote Option) Act 1995**.

(4) Where the immediately preceding general election of the territorial authority, regional council, or licensing trust was held
15 under this Act, the proposal on which the poll shall be held shall be that the next 2 general elections of the territorial authority, regional council, or licensing trust shall be held using the voting method known as the first-past-the-post system as provided in the Local Elections and Polls Act 1976.

3E. Effect of poll—(1) Where more than 50 percent of the
20 valid votes at any poll held under **section 3D** of this Act are cast for the proposal that the next 2 general elections of a territorial authority, regional council, or licensing trust shall be held using a different voting method from that used for the immediately preceding such general election, that different voting method
25 shall be used for those general elections and shall continue to be used until a resolution under **section 3** of this Act takes effect or a further poll is held under **section 3D** of this Act, whichever occurs first.

(2) In every other case where a poll is held, the voting
30 method used for the immediately preceding general election of the territorial authority, regional council, or licensing trust shall be used for the next 2 general elections thereafter and shall continue to be used until a resolution under **section 3** of this Act takes effect or a further poll is held under **section 3D** of this Act,
35 whichever occurs first.

Struck Out (Unanimous)

4. Form of voting papers—(1) Notwithstanding anything in section 25 (1) of the principal Act, the voting papers to be used at any election held under this Act shall be in the form in the **First Schedule** to this Act.

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(2) The list of candidates shall be arranged either in one continuous column or in 2 or more columns in such manner as, in the opinion of the Returning Officer, is best for marking and counting.

New (Unanimous)

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PART II

SINGLE TRANSFERABLE VOTE SYSTEM

4. Application—This Part of this Act shall apply to—

- (a) Any general election of a territorial authority, regional council, or licensing trust, required to be held under this Part of this Act by **section 3 (4)** or **section 3E (1)** of this Act; and 15
- (b) Any general election of a community board held in conjunction with the general election of a territorial authority to which **paragraph (a)** of this section relates; and 20
- (c) Any general election of any other local authority held over an area within the district of a territorial authority and in conjunction with an election of that territorial authority to which **paragraph (a)** of this section relates; and 25
- (d) Every election to fill an extraordinary vacancy in an office for which the immediately preceding general election was held under this Part of this Act.

4A. Conduct of single transferable vote election— 30
Except as provided by this Part of this Act, the provisions of the principal Act relating to the election of a member of a local authority shall apply in relation to any election held under this Part of this Act.

5. Method of voting—(1) Each elector shall have a single 35
transferable vote, being a vote which is—

- (a) Capable of being given so as to indicate the elector's preference for the candidates in order; and
- (b) Capable of being transferred to the next choice—
- 5 (i) When the vote is not required to give a prior choice the necessary quota of votes; or
- (ii) When, owing to the deficiency in the number of votes given for a prior choice, that choice is excluded from the list of candidates.
- (2) The elector, on receiving the voting papers forwarded by the Returning Officer, shall alone and secretly on each voting paper exercise his or her vote—
- 10 (a) By placing on the voting paper the figure "1" opposite the name of the candidate for whom he or she votes and in addition, if he or she wishes, by placing the figure "2" opposite the name of the candidate of his or her
- 15 second choice, the figure "3" opposite the name of the candidate of his or her third choice and so on in the order of his or her preference; and
- (b) In accordance with the instructions on the voting paper and in accordance with any additional instructions that the Returning Officer may consider it advisable to give to the elector.
- 20

New (Unanimous)

- 25 (3) Nothing in this section shall detract from the application of section 36 or section 69 (2) and (3) of the principal Act to voting in an election held under this Part of this Act.

Cf. Local Elections (Northern Ireland) Order 1985, r. 34 (8)

New (Unanimous)

- 30 **5A. Form of voting paper—**(1) The voting paper to be used at any election held under this Part of this Act shall—
- (a) Be in the form in the **First Schedule** to this Act; and
- (b) Set out the names of the candidates in alphabetical order of surname; and
- 35 (c) List the candidates either in 1 continuous column or in 2 or more columns in such manner as, in the opinion of the Returning Officer, is best for marking and counting; and

New (Unanimous)

- (d) Show party accreditations or other designations (if claimed and not disallowed); and
- (e) Show such additional description as may be necessary to identify the candidates or any of them. 5
- (2) The Returning Officer may combine the voting paper to be used at any election held under this Part of this Act with the voting paper or papers to be used at any other election or elections or poll or polls to be conducted simultaneously with the election held under this Part of this Act. 10
- (3) Where the Registrar combines voting papers pursuant to **subsection (2)** of this section, the combined voting paper—
- (a) May be of the 1 colour; and
- (b) Shall have 1 counterfoil only; and
- (c) Shall bear, on any part that can be detached from any other part, the consecutive number and the official mark; and 15
- (d) Shall be combined in such a manner as to enable the Returning Officer to detach the voting paper to be used at the election held under this Part of this Act from any other voting paper; and 20
- (e) Shall, where the voting paper is combined with the voting paper for 1 or more elections or polls not held under this Part of this Act, bear or be accompanied by a prominent notice— 25
- (i) Warning electors that different methods of voting are required for different voting papers included on the combined voting paper; and
- (ii) Advising electors to read carefully the Directions to Voter for each voting paper before exercising their votes. 30
- (4) Section 25 (2) to (5) of the principal Act shall apply to every voting paper to be used at any election held under this Part of this Act.
- (5) Where any voting paper to which this section applies is used at an election held under Part III of the principal Act, section 68 (4) (b) of that Act shall apply as if the reference to clauses 3 to 5 of the “Directions to Voters” section of the voting paper were a reference to clauses 2 to 4 of the voting paper under this section. 35 40

Struck Out (Unanimous)

- 5 **6. Procedure after close of voting**—(1) The procedure to be undertaken after the close of voting pursuant to section 77 of the principal Act shall commence as from 12 noon on the date of the election.
- (2) There shall be a separate count in respect of each electoral area in the local government area.
- 10 (3) Nothing in **subsection (1)** of this section shall require the Returning Officer to commence counting the votes for all the electoral areas in any local government area at the same time.
- Cf. Local Elections (Northern Ireland) Order 1985, r. 43 (2), (3)

New (Unanimous)

- 15 **6. Procedure after close of voting**—In their application to any election held under this Part of this Act, section 39 and section 77 of the principal Act shall be read as if,—
- (a) For each occurrence of the expression “number of votes”, there were substituted the expression “number of first preference votes”; and
- 20 (b) After the words “the voter desired to vote” in section 39 (1) (c) and section 77 (6), there were added the words “and, where more than 1 candidate is indicated, which do not clearly indicate the voter’s first preference among those candidates”.

25 *Struck Out (Unanimous)*

- 7. Informal voting papers**—Any voting paper—
- (a) Which does not bear the official mark; or
- (b) On which the figure “1” standing alone is not placed so as to indicate a first preference for some candidate; or
- 30 (c) On which the figure “1” standing alone indicating a first preference is set opposite the name of more than one candidate; or
- (d) On which anything (other than the consecutive number) is printed or marked by which the elector can be
- 35 identified; or

Struck Out (Unanimous)

(e) Which is unmarked or void for uncertainty—
shall be set aside as informal and not counted:

Provided that no voting paper shall be set aside as informal
and not counted by reason only of carrying the words “one”, 5
“two”, “three” (and so on) or any other mark instead of a
figure if, in the opinion of the Returning Officer, the word or
mark clearly indicates a preference or preferences.

Cf. Local Elections (Northern Ireland) Order 1985, r. 46 (1)

8. Counting of votes—(1) The counting of votes in 10
elections held under this Act shall be in accordance with the
procedures set out in the **Second Schedule** to this Act.

(2) The Returning Officer may, if he or she wishes, use
computer technology to facilitate the counting of votes
pursuant to **subsection (1)** of this section or the recounting of 15
voting papers pursuant to **section 12 (1)** of this Act.

(3) Where computer technology is used pursuant to
subsection (2) of this section, the procedures set out in the **Second**
and **Third Schedules** to this Act shall be performed on the
computer records, created by reference to the voting papers, 20
instead of, or as well as, on the voting papers themselves.

(4) Computer records created pursuant to this section shall
pertain solely to the pattern of preferences indicated by the
electors as a whole and shall not include any information
prejudicial to the secrecy of the ballot. 25

(5) The validity of any election held under this Act shall not
be questioned on the ground that computer technology was
used to facilitate the counting of votes or the recounting of
voting papers pursuant to **subsection (2)** of this section.

(6) The retention and disposal of all computer tapes, disks or 30
diskettes containing information derived from the voting
papers used in elections held under this Act, shall be in
accordance with the provisions of section 45 (1) of the principal
Act and **section 11** of this Act.

New (Unanimous)

35

8. Official count—(1) In this section, the term “supervising
Returning Officer” means,—

New (Unanimous)

- (a) In the case of an election to which section 5c (1) of the principal Act applies, the supervising Returning Officer appointed under that subsection; or
- 5 (b) In the case of an election to which section 195 (5) of the Sale of Liquor Act 1989 applies, the Returning Officer for the licensing trust.
- (2) Where any election held under this Part of this Act—
- 10 (a) Is an election to which section 5c (1) of the principal Act applies; or
- (b) Is an election to which section 195 (5) of the Sale of Liquor Act 1989 applies,—
- the official count shall be conducted by the supervising Returning Officer.
- 15 (3) In any case to which **subsection (2)** of this section applies, each of the Returning Officers responsible for conducting the election shall, as soon as practicable after completion of the scrutiny of the roll, forward all voting papers used at the election to the supervising Returning Officer in accordance
- 20 with **subsections (4) and (5)** of this section.
- (4) Where voting papers are required to be forwarded under **subsection (3)** of this section, they shall be forwarded—
- (a) By such secure method as is agreed between the Returning Officer and the supervising Returning
- 25 Officer; and
- (b) In the parcels referred to in section 39 (2) or section 77 (9) of the principal Act, as the case may be, together with such other parcels as the Returning Officer considers appropriate, which shall be sealed and
- 30 certified in the same manner as the parcels referred to in section 39 (2) or section 77 (9) of the principal Act.
- (5) Where voting papers are forwarded under **subsection (4)** of this section, the Returning Officer shall forward separately to
- 35 the supervising Returning Officer an inventory of the parcels so forwarded.
- (6) The official count at every election held under this Part of this Act—
- (a) Shall be conducted in accordance with the procedures set
- 40 out in the **Second Schedule** to this Act; and
- (b) Shall not be conducted in accordance with the procedures set out in section 42 of the principal Act or section

New (Unanimous)

194 (6) of the Sale of Liquor Act 1989, as the case may be.

Struck Out (Unanimous)

- 9. Declaration of result**—(1) Notwithstanding anything in section 42(5) of the principal Act, in a contested election, when the result of the election has been ascertained in respect of a local government area or an electoral area in a local government area, the Returning Officer shall forthwith—
- (a) Declare to be elected the candidates who are deemed to be elected in accordance with the relevant provisions of the **Second Schedule** to this Act; and
 - (b) Give public notice of—
 - (i) The names of the candidates declared to be elected; and
 - (ii) The number of first preference votes for each candidate, whether elected or not; and
 - (iii) Any transfer of votes; and
 - (iv) The total number of votes for each candidate at each stage of the count at which such transfer took place; and
 - (v) The order in which candidates were elected.
- (2) In an uncontested election, the provisions of section 18 of the principal Act shall apply.
- Cf. Local Elections (Northern Ireland) Order 1985, r. 56

New (Unanimous)

- 9. Official results**—(1) On completion of the official count under **section 8** of this Act, the Returning Officer shall prepare and sign a certificate stating—
- (a) The total number of voting papers, other than spoilt voting papers and papers rejected under section 41 (2) of the principal Act, used at the election; and
 - (b) The number of voting papers rejected as informal; and
 - (c) The number of first preference votes for each candidate, whether elected or not; and

New (Unanimous)

- (d) Whether or not any transfer of votes occurred; and
(e) The number of votes for each candidate, including first preference votes and transferred votes, at each stage of the count at which any such transfer occurred; and
5 (f) The names of the candidates declared to be elected; and
(g) The order in which candidates were elected.
(2) A copy of the certificate prepared under **subsection (1)** of this section shall—
10 (a) Be sent to each candidate at the election; and
(b) Be kept in every public office of the local authority; and
(c) Be available for public inspection during the hours that office is open to the public, for a period of not less than 30 days after the declaration under **subsection (3)** of this section.
15 (3) As soon as practicable after the completion of the official count, the Returning Officer shall, by public notice, declare the result of the election.
(4) Every such public notice shall—
20 (a) List—
(i) The names and political accreditations (if any) of the candidates declared to be elected, in the order in which they were elected; and
(ii) The number of first preference votes for each such candidate; and
25 (b) List—
(i) The names and political accreditations (if any) of the unsuccessful candidates; and
(ii) The number of first preference votes for each such candidate; and
30 (iii) The total number of votes for each such candidate; and
(c) Give notice that the certificate prepared under **subsection (1)** of this section is available for public inspection, and the places and times at which it can be inspected.
35

Struck Out (Unanimous)

10. Forfeiture of deposit—(1) If the total number of votes received by any unsuccessful candidate is less than one-fourth

Struck Out (Unanimous)

of the total number of votes received by the successful candidate with the fewest votes of the candidates elected, the deposit of the unsuccessful candidate shall be forfeited and paid into the general fund or account of the local authority. 5

(2) Nothing in **subsection (1)** of this section applies to, or shall be affected by the result of, any subsequent recount of voting papers carried out pursuant to **section 12 (1)** of this Act.

(3) For the purposes of this section, the expression “total number of votes received” means,— 10

(a) In relation to any unsuccessful candidate, the total number of votes, including first preference votes and transferred votes, credited to such candidate at the stage of the count at which he or she is excluded from the election; and 15

(b) In relation to the successful candidate with the fewest votes of the candidates elected, the total number of votes, including first preference votes and transferred votes, credited to the candidate at the completion of the last stage of the count. 20

Cf. Senate Bill 1993 (New Zealand), cl. 314 (3)

*New (Unanimous)***10. Forfeiture of deposit, and refund of deposit—**

(1) Subject to **subsection (2) (b)** of this section, if the total number of votes of a candidate is less than,— 25

(a) In an election to fill a single vacancy, one-eighth of the number of valid votes at that election; or

(b) In an election to fill multiple vacancies, one-quarter of the quota,—

the deposit made pursuant to section 14 of the principal Act shall be forfeited and paid into the general fund or account of the local authority. 30

(2) The deposit shall be returned to the person who paid it or, as the case may require, to his or her personal representatives,— 35

(a) Where **subsection (1)** of this section does not apply; or

(b) Where any candidate—

New (Unanimous)

- 5 (i) Withdraws or retires pursuant to section 16 or section 21 of the principal Act; or
(ii) Is elected without a poll; or
10 (iii) Dies before the close of nominations; or
(iv) Being a candidate for the office of Mayor of a territorial authority, dies, or becomes incapable under any Act of holding that office, in such circumstances that a new election is required to be held pursuant to section 22 of the principal Act; or
15 (v) Not being a candidate for the office of Mayor of a territorial authority, dies before the close of voting or becomes, before the close of voting, incapable under any Act of holding the office for which he or she is a candidate.
- (3) Nothing in section 15 of the principal Act shall apply in relation to any election held under this Part of this Act.

Struck Out (Unanimous)

- 20 **11. Disposal of voting papers, etc.**—(1) Notwithstanding anything to the contrary in section 45 (2) of the principal Act, the Registrar of the District Court shall keep the packets containing used voting papers and other papers, and computer tapes, disks or diskettes used in connection with elections held under this Act, as specified in paragraph (a) of section 45 (1) of
25 the principal Act and **section 8 (6)** of this Act, until the close of the next general election of members of the local authority.
- 30 (2) The Registrar shall not open the said packets or permit them to be opened except for the purpose of filling an extraordinary vacancy or on the order of some Court of competent jurisdiction.
- (3) At the end of the period of retention specified in **subsection (1)** of this section, the Registrar shall effectively destroy the said packets or otherwise dispose of them as he or she thinks fit,
35 unless arrangements for their disposal have otherwise been prescribed by regulations made under this Act.

New (Unanimous)

11. Disposal of voting papers and other records—

(1) Except as provided in this section, sections 45 and 116A (4) of the principal Act shall apply in relation to every election held under this Part of this Act.

5

(2) Section 45 (2) of the principal Act shall be read, in relation to any packets containing voting papers or other records used at an election held under this Part of this Act, as if—

(a) The words “for 6 months thereafter” were omitted, and the words “until public notice is given under section 11 of the principal Act of the next general election of members of that local authority” were substituted; and

10

(b) After the words “Court of competent jurisdiction” were added the words “or for the purposes of an indicative recount under section 12 of this Act”.

15

Struck Out (Unanimous)

12. Extraordinary vacancies—(1) Where a local authority has been notified pursuant to section 51 (1) of the principal Act that an extraordinary vacancy has occurred in the office of a member elected under this Act, the local authority shall fill such vacancy by a recount of the voting papers in accordance with the procedures set out in the **Third Schedule** to this Act:

20

Provided that where any such vacancy occurs within 4 months before the date fixed for the next triennial general election, the local authority may by resolution determine that the vacancy shall not be filled.

25

(2) The principal administrative officer shall notify, within 7 days of the date on which the local authority was notified that a vacancy had occurred, that a recount of voting papers to fill the vacancy is to take place by—

30

(a) Notice in writing sent or delivered to each eligible candidate; and

(b) An advertisement subsequently published in a daily newspaper circulating in the relevant local government area.

35

(3) An eligible candidate who wishes to be included in a recount must consent in writing to the principal administrative

Struck Out (Unanimous)

officer by 12 noon on the 8th day after the date of an advertisement referred to in **subsection (2) (b)** of this section.

5 (4) The term of office of a member elected by means of a recount shall be pursuant to sections 6 and 7 of the principal Act.

Cf. Local Government Act 1993 (Tasmania), s. 307 (4), (5), (6)

New (Unanimous)

Extraordinary Vacancies

10

12. Indicative recount—(1) Where—

(a) The immediately preceding general election of members of any local authority was held under this Part of this Act; and

15

(b) An extraordinary vacancy has occurred in the office of any member of the local authority; and

(c) The local authority is empowered under any Act to fill that extraordinary vacancy by appointment,—

20

the local authority may direct that an indicative recount of the voting papers used in the election in respect of the office in which the extraordinary vacancy has occurred shall be held to ascertain the candidate who would have been next to be declared elected at that election (being a candidate who has given his or her written consent to appointment in accordance with **subsection (3)** of this section).

25

(2) Every indicative recount shall be held in accordance with the procedures in the **Third Schedule** to this Act.

30

(3) Before commencing an indicative recount under this section, but without undue delay, the Returning Officer shall give written notice to every unsuccessful candidate at that election inviting that candidate to give, by a date not earlier than 7 days and not later than 14 days after the date of that notice, his or her written consent to be appointed to the extraordinary vacancy if the local authority so wishes.

Struck Out (Unanimous)

13. By-elections—(1) A by-election to fill an extraordinary vacancy shall be held if—

- (a) It is not possible to carry out a recount of votes; or
- (b) When vacancies remain unfilled pursuant to section 19 of the principal Act: 5

Provided that, in cases where **paragraph (a)** of this subsection applies, if the vacancy has occurred within 6 months before the date fixed for the next triennial general election, the local authority may by resolution determine that the vacancy shall not be filled. 10

(2) A by-election shall be held in accordance with this Act as if it were an election.

Cf. Local Government Act 1993 (Tasmania), s. 308 (1), (3)

14. Electoral petition—(1) Any elector of a local authority may promote an electoral petition requesting that electors be polled on the question of whether or not that local authority shall conduct its elections in accordance with this Act. 15

(2) Where the principal administrative officer of the local authority receives an electoral petition pursuant to **subsection (1)** of this section, he or she shall, within 14 days after the date on which he or she receives the petition, determine either— 20

- (a) That the electoral petition is correct; or
- (b) That the electoral petition has lapsed and return that petition to the promoter of the petition. 25

(3) In determining whether or not an electoral petition is correct pursuant to **subsection (2)** of this section, the principal administrative officer shall be satisfied that the petition has been signed by not less than 5 percent of the eligible electors of the local authority. 30

(4) An elector may sign an electoral petition pursuant to **subsection (1)** of this section and be counted as an eligible elector of the local authority only if he or she meets the terms of section 51 (13) of the principal Act.

(5) Every person who signs an electoral petition pursuant to **subsection (1)** of this section shall clearly state, against the signature, the person's name and address with sufficient particularity to enable the person to be identified as an elector of the local authority. 35

Struck Out (Unanimous)

5 **15. Poll of electors**—(1) A local authority shall direct the Returning Officer to conduct a poll of electors within 15 months from the date the principal administrative officer determines an electoral petition to be correct pursuant to **section 14(2)** of this Act.

10 (2) Such a poll must be held at least 15 months prior to the date on which a triennial general election of the local authority is to be held and the plurality vote shall then determine the voting system to apply for that election.

 (3) Notwithstanding anything to the contrary in section 121 (3) of the principal Act, the result of any poll conducted pursuant to this section, shall be binding on the local authority for a period of 6 years.

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

20 (a) Applying with or without modifications, for the purposes of this Act, provisions dealing with the conduct of elections held under this Act:

 (b) Prescribing forms for the purposes of this Act:

 (c) Prescribing the time at which, and the manner in which, special voters may vote:

25 (d) Prescribing conditions upon or subject to which special voters may vote:

 (e) Prescribing different methods of voting for different classes of special voters:

30 (f) Prescribing arrangements and conditions for the disposal of used voting papers and other papers and computer tapes, disks or diskettes used in connection with elections held under this Act:

 (g) Prescribing penalties for offences against regulations made under this Act, not exceeding a fine of \$100:

35 (h) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

 Cf. Senate Bill 1993 (New Zealand), cl. 400; Local Elections and Polls Act 1976 (New Zealand), s. 123

40 **17. Amendment to Local Government Act 1974**—
Section 101L of the Local Government Act 1974 (as substituted

Struck Out (Unanimous)

by section 9 (1) of the Local Government Amendment Act 1991) is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) Subject to subsection (3) of this section and except as provided in subsection (4) of this section, the number of members to be elected by the electors of any electoral area pursuant to the Local Elections (Single Transferable Vote Option) Act 1995 shall be not less than 3.”

New (Unanimous)

PART III

AMENDMENTS TO PRINCIPAL ACT

17. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “inner compartment”, the following definition:

“‘Licensing trust’—

“(a) Means a licensing trust constituted under section 185 of the Sale of Liquor Act 1989; and

“(b) Includes any licensing trust deemed to be so constituted under section 241 of that Act.”

18. New sections substituted—The principal Act is hereby amended by repealing section 3, and substituting the following sections:

“3. Elections to be held under this Act or Local Elections (Single Transferable Vote Option) Act 1995— Subject to any Act by which this Act or any former Local Elections and Polls Act is or has been made to apply, or by or under which any local authority is constituted, every election shall be held and taken in the manner provided by this Act or, where section 4 of the Local Elections (Single Transferable Vote Option) Act 1995 applies, in the manner provided by Part II of that Act.

“3AA. Polls to be held under this Act—Subject to any Act by which this Act or any former Local Elections and Polls Act is or has been made to apply, or by or under which any local authority is constituted, every poll on a proposal to be

New (Unanimous)

submitted to the vote of the electors under any such Act shall be held and taken in the manner provided by this Act.”

5 **19. Method of conducting election or poll in certain cases**—Section 3A of the principal Act (as substituted by section 3 (1) of the Local Elections and Polls Amendment Act 1992) is hereby amended by adding the following subsections:

10 “(3) In this section, the term ‘method’, in relation to the conduct of an election, relates solely to the matters dealt with in sections 32 to 34, 66, 80, and 88 of this Act.

 “(4) For the avoidance of doubt, it is hereby declared that nothing in this section shall determine whether or not any election of any local authority is to be conducted in accordance with the **Local Elections (Single Transferable Vote Option) Act 1995**.”

15 **20. Public notice of right to demand poll on voting method**—The principal Act is hereby amended by inserting, after section 3A, the following section:

20 “3B. (1) Subject to **subsection (3)** of this section, every territorial authority, regional council, and licensing trust shall, not later than the 8th day of March in the year immediately preceding the year in which the next triennial general election is to be held, give public notice of the right to demand, under **section 3C of the Local Elections (Single Transferable Vote Option) Act 1995**, a poll on the voting method to be used for the next 2 triennial general elections of that territorial authority, regional council, or licensing trust.

25 “(2) Where the territorial authority, regional council, or licensing trust has made a resolution under **section 3 of the Local Elections (Single Transferable Vote Option) Act 1995**, every public notice under **subsection (1)** of this section shall include—

30 “(a) Notice of that resolution; and

 “(b) A statement that a poll is required to countermand that resolution.

35 “(3) Nothing in this section shall apply where a poll of electors was held under **section 3D of the Local Elections (Single Transferable Vote Option) Act 1995** in respect of the voting method to be used at the immediately preceding triennial general election of members of the territorial authority, regional council, or licensing trust.”

New (Unanimous)

21. Use of computer technology—The principal Act is hereby amended by inserting, after section 116, the following section:

“116A. (1) Notwithstanding anything to the contrary in this Act but subject to this section, computer technology may be used to facilitate the performance of any procedure or function required by this Act. 5

“(2) It shall be the responsibility of the officer responsible under this Act for the performance of any procedure or function to take all reasonable steps to ensure that any use of computer technology referred to in **subsection (1)** of this section is consistent with the purposes of the procedure or function and does not detract from the principles governing the conduct of elections and polls laid down by this Act, including, but not limited to,— 10 15

“(a) The timely issue of voting papers to all eligible electors:

“(b) Maintenance of the secrecy of the ballot:

“(c) The prevention of unauthorised disclosure of the state of the election to any person or persons: 20

“(d) The accuracy of the count.

“(3) An election or poll shall not be disputed by reason only of the use of computer technology in accordance with this section.

“(4) Where computer technology is used in accordance with this section, sections 45 and 46 of this Act shall apply, in the same manner as they apply to the items specified in those sections but with any necessary modifications, to all computer records created in the course of the conduct of the election or poll. 25 30

“(5) Notwithstanding section 43 (7) of this Act, nothing in this section shall authorise the use of computer technology for the purposes of any recount under section 43 of this Act.”

22. Regulations—The principal Act is hereby amended by repealing section 123, and substituting the following section: 35

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

“(a) Prescribing forms for the purposes of this Act:

“(b) Prescribing procedures and facilities for the issue, exercise, and allowing of special votes: 40

New (Unanimous)

5 “(c) Making additional provision for the use of computer technology in accordance with **section 116A** of this Act:
 “(d) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.”

23. Amendment to Third Schedule—The Third Schedule to the principal Act is hereby amended by inserting, after the item relating to the First Schedule, the following item:

10 **Local Elections and Polls (Single Transferable Vote Option) Act 1995** By omitting **clauses 2 to 4** of the Directions to Voter in the form in the **First Schedule**, and substituting the following clauses:
 15 “2. After voting, fold the voting paper and seal it in the enclosed envelope addressed to the Returning Officer.
 “3. Post or deliver the envelope to the Returning Officer or any Deputy Returning Officer.
 20 “4. The voting paper must be in the hands of the Returning Officer before [Insert ‘12 noon’ or ‘5 p.m.’, as the case may require. See section 65 of the Local Elections and Polls Act 1976.] on [Date of election].
 25 “5. If you spoil this voting paper, you may return it to the officer who issued it and apply for a special voting paper.”

PART IV

AMENDMENTS TO OTHER ENACTMENTS

30 **24. Consequential amendments**—The Act specified in the **Fourth Schedule** to this Act is hereby consequentially amended in the manner indicated in that Schedule.

SCHEDULES

Section 5A (1)

FIRST SCHEDULE

FORM OF VOTING PAPER AT AN ELECTION

Directions to Voter

(Read carefully before voting)

1. You have ONE vote.
 - (a) Exercise your vote by entering—
 - (i) The figure “1” opposite the name of the candidate you most desire to see elected—
and, if you so wish,—
 - (ii) The figure “2” opposite your second preference:
 - (iii) The figure “3” opposite your third preference:
 - (iv) The figure “4” opposite your fourth preference—and so on until you are indifferent.
 - (b) The sequence of your preferences is crucial.
 - (c) To make sure your vote has the maximum chance of counting towards the election result, you are advised to continue numbering the candidates in order of your preference until you are indifferent as between the remaining candidates whom you have not marked.
 - (d) A later preference is considered only if an earlier preference has a surplus above the quota required for election or is excluded because of insufficient support.
 - (e) Under no circumstances can a later preference count against an earlier preference.
 - (f) The voting paper will be set aside as informal if the figure “1” is placed opposite more than one name.
 - (g) Do NOT vote with a “✓”.

Struck Out (Unanimous)

2. After voting, fold the voting paper and seal it in the enclosed envelope addressed to the Returning Officer.
3. Post or deliver the envelope to the Returning Officer or any Deputy Returning Officer.
4. The voting paper must be in the hands of the Returning Officer before 12 noon on [date of election].
5. If you spoil this voting paper, you may return it to the officer who issued it and apply for a replacement voting paper.

New (Unanimous)

2. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.
3. If you spoil this ballot paper, you may return it to the officer who issued it and apply for a fresh one.
4. This voting paper must not be taken out of the polling booth.

FIRST SCHEDULE—continued

FORM OF VOTING PAPER AT AN ELECTION—continued

[Name of local government area]

[Name of electoral area] (if local government area is subdivided)

Election of Mayor (or of Members, or as the case may be)

MARK ORDER OF PREFERENCE IN SPACE BELOW	CANDIDATES
	ARNOLD, Kristeena LABOUR
	BABBINGTON, Santaana ALLIANCE
	CAPSTEEN, Timothy INDEPENDENT
	CHOTE, Jill INDEPENDENT
	CHRISTENSEN, Christopher CITIZENS AND RATEPAYERS
	COOPER, Geoffrey ALLIANCE
	HATCH, Keith INDEPENDENT
	HEPI, Koro LABOUR
	HIGGINSON, Florence PROGRESSIVE COMMUNITY
	INCHAM, Mary INDEPENDENT
	NIGHTINGALE, Kenneth LABOUR
	O'SULLIVAN, Samantha PROGRESSIVE COMMUNITY
	PHILLIPS, Joshua CITIZENS AND RATEPAYERS
	RANGI, Henare PROGRESSIVE COMMUNITY
	RATAHI, David INDEPENDENT
	SEARANKE, John ALLIANCE
	SMITH, Jane CITIZENS AND RATEPAYERS

NOTES*

1. Notes 1 and 2 in relation to Form 6 in the First Schedule to the principal Act apply to this Schedule.

2. When the election is to fill a single vacancy, the *Directions to Voter*, No. 1 (d) is excluded.

*Not to be printed as part of the form.

*Struck Out (Unanimous)***Section 8****SECOND SCHEDULE****COUNTING OF VOTES****PART A***General*

1. Interpretation—In this Schedule, unless the context otherwise requires,—

“Absolute majority of votes”, in relation to a candidate, is a number of votes which is equal to or greater than one-half of the total number of voting papers, other than non-transferable and informal voting papers, on which electors have recorded their votes for the candidate:

“Continuing candidate” means any candidate not deemed to be elected and not excluded:

“Count” means all the operations involved in the counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of excluded candidates:

“Deemed to be elected” means deemed to be elected for the purpose of the counting of the votes but without prejudice to the declaration of the result of the election:

“Non-transferable vote” means a voting paper—

(a) On which no second or subsequent preference is recorded for a continuing candidate; or

(b) Which is excluded by the Returning Officer under **clause 8(4)** of this Schedule:

“Preference” includes the following:

(a) “First preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference:

(b) “Next available preference” means a preference which is the second or, as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored):

(c) A “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on:

“Quota” means the number calculated in accordance with **clause 6** of this Schedule:

“Stage of the count” means—

(a) The determination of the first preference vote for each candidate; or

(b) The transfer of a surplus of a candidate deemed to be elected; or

(c) The exclusion of one or more candidates at any given time:

“Surplus” means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a combination of both) exceeds the quota; but references in this Schedule to the transfer of the surplus means the transfer

Struck Out (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART A—*continued*

(at a transfer value) of all transferable papers from the candidate who has the surplus:

“Transferable paper” means a voting paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate:

“Transferred vote” means a vote derived from a voting paper on which a second or subsequent preference is recorded for the candidate to whom that paper has been transferred:

“Transfer value” means the value of a transferred vote calculated in accordance with **subclause (4)** or **subclause (7)** of **clause 7** of this Schedule, as the case may be.

Cf. Local Government Act 1993 (Tasmania), Schedule 7, cl. 1; Local Elections (Northern Ireland) Order 1985, r. 42

PART B

Elections to Fill a Single Vacancy

2. First preferences—(1) The Returning Officer shall examine the voting papers and sort them into parcels according to the first preference recorded for each candidate, setting aside any that are informal.

(2) The Returning Officer shall count the voting papers in each such parcel and credit each candidate with a number of votes equal to the number of papers, not set aside as informal, on which a first preference has been recorded for that candidate.

(3) The candidate who obtains an absolute majority of votes shall be elected.

3. Second and subsequent preferences—(1) If no candidate has an absolute majority of votes, the Returning Officer shall exclude together the two or more candidates with the least number of votes if the total vote of such two or more candidates is less than the number of votes credited to the next lowest candidate; otherwise the Returning Officer shall exclude the candidate having the least number of votes.

(2) The voting papers of the excluded candidates shall be transferred to whichever of the continuing candidates is marked by that voter as his or her next available preference, and the votes so transferred shall be added to the votes of those candidates.

(3) Any voting paper on which no further preference is marked shall be set aside as non-transferable and the total of such papers shall be recorded.

(4) The process specified in **subclauses (1), (2), and (3)** of this clause shall be repeated until one candidate has an absolute majority of votes and that candidate shall then be declared elected.

4. Returning Officer to decide exclusion and election—(1) If, when a candidate has to be excluded, 2 or more candidates each have the same number of votes and are lowest, the candidate with the least number of

*Struck Out (Unanimous)*SECOND SCHEDULE—*continued*COUNTING OF VOTES—*continued*PART B—*continued*

votes at the earliest stage of the count at which the candidates in question had an unequal number of votes, shall be excluded.

(2) If 2 or more candidates are still equal and lowest, the Returning Officer shall decide which candidate is to be excluded by the drawing or casting of lots.

(3) If there is a tie on election, the Returning Officer shall declare elected the candidate who had a greater number of votes at the earliest stage at which the tied candidates had an unequal number of votes.

(4) Where the number of votes credited to 2 candidates who are tied on election were equal at all stages of the count, the Returning Officer shall decide which candidate shall be declared elected by the drawing or casting of lots.

PART C

Elections to Fill More Than One Vacancy

5. First stage—(1) The Returning Officer shall sort the voting papers into parcels according to the candidates for whom first preference votes are given.

(2) The Returning Officer shall then count the number of first preference votes given on voting papers for each candidate and shall record those numbers.

(3) The Returning Officer shall also ascertain and record the number of valid voting papers.

6. The quota—(1) The Returning Officer shall divide the number of valid voting papers by a number exceeding by one the number of members to be elected.

(2) Where the quotient obtained under **subclause (1)** of this clause is 100 or more, that number shall be increased by one (any fraction being disregarded).

(3) Where the quotient obtained under **subclause (1)** of this clause is less than 100, the division shall be continued to two decimal places and the number so obtained shall be increased by 0.01 (any remainder being disregarded).

(4) The number calculated in accordance with **subclauses (1)** and **(2)** or **subclauses (1)** and **(3)** of this clause shall be the number of votes sufficient to secure the election of a candidate (in this Schedule referred to as the quota).

(5) At any stage of the count a candidate whose total vote equals or exceeds the quota shall be deemed to be elected.

7. Transfer of votes—(1) Where the number of first preference votes for any candidate exceeds the quota, the Returning Officer shall sort all the voting papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped—

(a) According to the next available preference given on those papers for any continuing candidate; or

Struck Out (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

- (b) Where no such preference is given, as the sub-parcel of non-transferable votes.
- (2) The Returning Officer shall count the number of voting papers in each parcel referred to in **subclause (1)** of this clause.
- (3) The Returning Officer shall, in accordance with this clause and **clause 8** of this Schedule, transfer each sub-parcel of voting papers referred to in **paragraph (a)** of **subclause (1)** of this clause to the candidate for whom the next available preference is given on those papers.
- (4) The vote on each voting paper transferred under **subclause (3)** of this clause shall be at a value (the transfer value) which—
- (a) Reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus; and
- (b) Is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the voting papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder, if any).
- (5) Where, at the end of any stage of the count involving the transfer of voting papers, the number of votes for any candidate exceeds the quota, the Returning Officer shall sort the voting papers in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped—
- (a) According to the next available preference given on those papers for any continuing candidate; or
- (b) Where no such preference is given, as the sub-parcel of non-transferable votes.
- (6) The Returning Officer shall, in accordance with this clause and **clause 8** of this Schedule, transfer each sub-parcel of voting papers referred to in **paragraph (a)** of **subclause (5)** of this clause to the candidate for whom the next available preference is given on those papers.
- (7) The vote on each voting paper transferred under **subclause (6)** of this clause shall be at—
- (a) A transfer value calculated as set out in **paragraph (b)** of **subclause (4)** of this clause; or
- (b) At the value at which that vote was received by the candidate from whom it is now being transferred,—
- whichever is the less.
- (8) Each transfer of a surplus constitutes a stage of the count.
- (9) Subject to **subclause (10)** of this clause, the Returning Officer shall proceed to transfer transferable papers until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.
- (10) Transferable papers shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are—

*Struck Out (Unanimous)*SECOND SCHEDULE—*continued*COUNTING OF VOTES—*continued*PART C—*continued*

- (a) Less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote; or
- (b) Less than the difference between the total votes of the two or more continuing candidates, credited at that stage of the count with the lowest recorded total numbers of votes and the candidate next above such candidates.

8. Supplementary provisions on transfer—(1) If, at any stage of the count, 2 or more candidates have surpluses,—

- (a) The transferable papers of the candidate with the largest surplus shall be transferred first; but
- (b) Where those surpluses are equal,—
 - (i) The transferable papers of the candidate who had the highest recorded votes at the earliest preceding stage at which they had an unequal number of votes shall be transferred first; or
 - (ii) Where the recorded votes of those candidates were equal at all stages of the count, the Returning Officer shall decide which candidate's transferable papers shall be transferred first by the drawing or casting of lots.
- (2) The Returning Officer shall, on each transfer of transferable papers under **clause 7** of this Schedule,—
 - (a) Record the total transfer value of the votes transferred to each candidate; and
 - (b) Add that value to the previous total of votes recorded for each candidate and record the new total; and
 - (c) Record as non-transferable votes the difference between the surplus and the total transfer value of transferred votes and add that difference to the previously recorded total of non-transferable votes; and
 - (d) Compare—
 - (i) The total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes,—
 - with—
 - (ii) The recorded total of valid first preference votes.

(3) All voting papers transferred under **clause 7** or **clause 9** of this Schedule shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a voting paper is so marked that it is unclear to the Returning Officer at any stage of the count under **clause 7** or **clause 9** of this Schedule for which candidate the next preference is recorded, the Returning Officer shall treat any vote on that voting paper as a non-transferable vote; and votes on a voting paper shall be so treated where, for example, the names of 2 or

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SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

more candidates (whether continuing candidates or not) are so marked that, in the opinion of the Returning Officer, the same order of preference is indicated or the numerical sequence is broken.

9. Exclusion of candidates—(1) If—

(a) All transferable papers which under the provisions of **clause 7** of this Schedule (including that clause as applied by **subclause (11)** of this clause) and this clause are required to be transferred, have been transferred; and

(b) Subject to **clause 10** of this Schedule one or more vacancies remain to be filled,—

the Returning Officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where **subclause (12)** of this clause applies, the candidates with the then lowest votes).

(2) The Returning Officer shall sort all the voting papers on which first preference votes are given for the candidate or candidates excluded under **subclause (1)** of this clause into two sub-parcels so that they are grouped as—

(a) Voting papers on which a next available preference is given; and

(b) Voting papers on which no such preference is given (thereby including voting papers on which preferences are given only for candidates who are deemed to be elected or are excluded).

(3) The Returning Officer shall, in accordance with this clause and **clause 8** of this Schedule, transfer each sub-parcel of voting papers referred to in **paragraph (a)** of **subclause (2)** of this clause to the candidate for whom the next available preference is given on those papers.

(4) The exclusion of a candidate, or of 2 or more candidates together, constitutes a further stage of the count.

(5) If, subject to **clause 10** of this Schedule, one or more vacancies still remain to be filled, the Returning Officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under **subclause (1)** of this clause into sub-parcels according to their transfer value.

(6) The Returning Officer shall transfer those papers in the sub-parcel of transferable papers with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those papers (thereby passing over candidates who are deemed to be elected or are excluded).

(7) The vote on each transferable paper transferred under **subclause (6)** of this clause shall be at the value at which that vote was received by the candidate excluded under **subclause (1)** of this clause.

(8) Any papers on which no next available preferences have been expressed shall be set aside as non-transferable votes.

(9) After the transfer of the voting papers in the sub-parcel of voting papers with the highest transfer value has been completed, the Returning Officer shall proceed to transfer in the same way the sub-parcel of voting

Struck Out (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

papers with the next highest value and so on until each sub-parcel of a candidate excluded under **subclause (1)** of this clause has been dealt with.

(10) The Returning Officer shall, after each stage of the count completed under this clause,—

(a) Record—

(i) The total value of votes; or

(ii) The total transfer value of votes—
transferred to each candidate; and

(b) Add that total to the previous total of votes recorded for each candidate and record the new total; and

(c) Record the value of non-transferable votes and add that value to the previous total of non-transferable votes; and

(d) Compare—

(i) The total number of votes then recorded for each candidate, together with the total number of non-transferable votes,—
with—

(ii) The recorded total of valid first preference votes.

(11) If, after a transfer of votes under any provision of this clause, a candidate has a surplus, that surplus shall be dealt with in accordance with **subclauses (5) to (10)** of **clause 7** and **clause 8** of this Schedule.

(12) Where the total of the votes of the 2 or more lowest candidates, together with any surpluses not transferred, is less than the number of votes credited to the next lowest candidate, the Returning Officer shall in one operation exclude such 2 or more candidates.

(13) If, where a candidate has to be excluded under this clause, 2 or more candidates each have the same number of votes and are lowest—

(a) Regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded; and

(b) Where the number of votes credited to those candidates was equal at all stages, the Returning Officer shall decide which candidate is to be excluded by the drawing or casting of lots.

10. Filling of last vacancies—(1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

(2) Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to another or other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.

(3) Where the last vacancies can be filled under this clause, no further transfer of votes shall be made.

Struck Out (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

11. Recount—(1) At any stage of the count the Returning Officer may, if he or she thinks fit, recount voting papers either once or more often if he or she is not satisfied as to the accuracy of any stage.

(2) On completion of the last stage of the count any candidate or his or her scrutineer then present may, before the declaration of the result of the election, request that a recount be undertaken of the votes cast at the election.

(3) If a request is made under **subclause (2)** of this clause, a recount shall be carried out at the discretion of the Returning Officer.

(4) Nothing in this clause shall require the Returning Officer to recount the same parcel or sub-parcel more than once.

(5) Where, as a result of a recount an error is discovered, the Returning Officer shall, where necessary, amend any results that have previously been announced.

12. Order of election of candidates—(1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected, shall be the order in which their respective surpluses were transferred, or would have been transferred but for **clause 7(10)** of this Schedule.

(2) A candidate credited with a number of votes equal to and not greater than the quota shall, for the purposes of this clause, be regarded as having had the smallest surplus at the stage of the count at which such candidate obtained the quota.

(3) Where the surpluses of 2 or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

(4) Where the number of votes credited to 2 or more candidates were equal at all stages of the count, the Returning Officer shall decide which candidate shall be deemed to have been elected first by the drawing or casting of lots.

(5) The order in which 2 or more candidates are deemed to be elected pursuant to **clause 10** of this Schedule shall be determined by reference to the descending order of the total number of votes credited to such candidates and, where necessary, in accordance with the principles pertaining to the ordering of candidates laid down in **subclauses (3) and (4)** of this clause.

13. Decisions of Returning Officer—The decision of the Returning Officer, whether expressed or implied, on any question which arises in relation to the exclusion of any candidate under **clause 9** of this Schedule or to

*Struck Out (Unanimous)*SECOND SCHEDULE—*continued*COUNTING OF VOTES—*continued*PART C—*continued*

any voting paper or transfer of votes shall be final, but may be subject to judicial review pursuant to section 43 or section 103 of the principal Act.

Cf. Local Elections (Northern Ireland) Order 1985, rs. 47–55; Senate Bill 1993 (New Zealand), cl. 352

New (Unanimous)

Section 8 (6)

SECOND SCHEDULE

COUNTING OF VOTES

PART A

General

1. Interpretation—In this Schedule, unless the context otherwise requires,—

“Absolute majority of votes”, in relation to a candidate at an election, is a number of votes that is equal to or greater than one-half of the total number of valid votes at that election:

“Continuing candidate” means any candidate not elected and not excluded:

“Count” means all the operations involved in the counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of excluded candidates:

“Elected” means elected for the purpose of the counting of the votes but without prejudice to the declaration of the result of the election:

“Non-transferable vote” means a vote on a voting paper on which no next preference for a continuing candidate is indicated or can be identified by the Returning Officer:

“Preference” includes the following:

(a) “First preference” means the figure “1” or any mark or word that clearly indicates a first (or only) preference:

(b) “Next available preference” means a preference that is the second or, as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is elected or is excluded thereby being ignored):

(c) A “second preference” is shown by the figure “2” or any mark or word that clearly indicates a second preference, a third preference by the figure “3” or any mark or word that clearly indicates a third preference, and so on:

“Quota” means the number calculated in accordance with **clause 5** of this Schedule:

New (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART A—*continued*

General—continued

“Stage of the count” means—

- (a) The determination of the first preference vote for each candidate; or
- (b) The transfer of a surplus of a candidate deemed to be elected; or
- (c) The exclusion of 1 or more candidates at any given time:

“Surplus” means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a combination of both) exceeds the quota; but references in this Schedule to the transfer of the surplus means the transfer (at a transfer value) of all votes from the candidate who has the surplus:

“Transferred vote” means a vote transferred from 1 candidate to another candidate for whom the voter has indicated a subsequent preference:

“Transfer value” means the value of a transferred vote calculated in accordance with **clause 6** of this Schedule.

PART B

Elections to Fill a Single Vacancy

2. First preferences—(1) The Returning Officer shall examine the voting papers, setting aside as informal any that do not clearly indicate the voter’s first preference among the candidates, to determine—

- (a) The number of valid voting papers; and
- (b) The number of votes sufficient to secure the election of any candidate (in this Schedule called the absolute majority); and
- (c) The number of first preference votes recorded for each candidate.

(2) The Returning Officer shall record the numbers determined under **subclause (1)** of this clause.

(3) If any candidate obtains an absolute majority of votes, that candidate shall be elected and the count shall cease.

3. Second and subsequent preferences—(1) If no candidate has an absolute majority of votes, the Returning Officer shall exclude,—

- (a) Where the number of votes for any candidate exceeds the total number of votes for all of those candidates with fewer votes, all of the last mentioned candidates; or
 - (b) In any other case, the candidate having the smallest number of votes.
- (2) Where any candidate is excluded under **subclause (1)** of this clause, each of the votes for the excluded candidate shall be transferred—

- (a) To the continuing candidates who are the next preferences of the voters giving the votes transferred at that stage of the count; and
 - (b) Where no such continuing candidate is clearly indicated, to the total of non-transferable votes.
-

*New (Unanimous)*SECOND SCHEDULE—*continued*COUNTING OF VOTES—*continued*PART B—*continued**Elections to Fill a Single Vacancy—continued*

(3) Immediately after any transfer of votes under **subclause (2)** of this clause the Returning Officer shall record—

(a) The total votes for each candidate following the transfer, which shall be,—

(i) In the case of a candidate from whom votes were transferred, zero votes; and

(ii) In the case of any other candidate, calculated by adding, to the total number of votes for that candidate at the preceding stage of the count, the number of votes transferred to that candidate at that transfer; and

(b) The total non-transferable votes at that stage, which shall be calculated by adding, to the total number of non-transferable votes at the preceding stage of the count, the number of such votes transferred at that transfer.

(4) The process specified in **subclauses (2) and (3)** of this clause shall be repeated until 1 candidate has an absolute majority of votes and that candidate shall then be elected.

4. Returning Officer to decide exclusion and election—(1) If, when 1 candidate has to be excluded, 2 or more candidates each have the same number of votes and are lowest, the candidate with the smallest number of votes at the earliest stage of the count at which the candidates in question had an unequal number of votes shall be excluded.

(2) If 2 or more candidates are still equal and lowest, the Returning Officer shall determine by lot which candidate is to be excluded.

(3) If there is a tie on election, the Returning Officer shall declare elected the candidate who had a greater number of votes at the earliest stage at which the tied candidates had an unequal number of votes.

(4) Where the number of votes credited to 2 candidates who are tied on election were equal at all stages of the count, the Returning Officer shall determine by lot which candidate shall be declared elected.

PART C

Elections to Fill More Than One Vacancy

5. Calculation of quota—For the purposes of **clause 7 (1) (b)** of this Schedule, the quota at any election shall be calculated by dividing the total number of valid votes at that election by a number that is 1 greater than the number of members to be elected at the election, and increasing the quotient so obtained,—

(a) Where that quotient is greater than 100, by 1 and disregarding any remaining fraction; and

(b) In any other case, by increasing the quotient (which shall be calculated in any such case to 2 decimal places only) by 0.01.

New (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

Elections to Fill More Than One Vacancy—continued

6. Calculation of transfer value—In any transfer of votes under this Schedule, the transfer value of the votes transferred shall be,—

- (a) In the case of the transfer of a surplus resulting from first preference votes only, the result of dividing the surplus by the total number of first preference votes for the candidate from whom the surplus is transferred; and
- (b) In the case of the transfer of a surplus resulting from a previous transfer of votes, the result of dividing the surplus by the total number of votes transferred in that previous transfer to the candidate from whom the surplus is transferred; and
- (c) In the case of the transfer of first preference votes from an excluded candidate, 1 vote; and
- (d) In the case of the transfer from an excluded candidate of votes transferred to that candidate in any previous stage of the count, the transfer value at which those votes were transferred to the candidate.

7. First stage—(1) The Returning Officer shall examine the voting papers, setting aside as informal any that do not clearly indicate the voter's first preference among the candidates, to determine—

- (a) The number of valid votes; and
- (b) The number of votes sufficient to secure the election of a candidate (in this Act referred to as the quota); and
- (c) The number of first preference votes for each candidate.

(2) The Returning Officer shall record the numbers determined under **subclause (1)** of this clause.

8. Transfer of surplus—(1) Where the number of first preference votes for any candidate equals or exceeds the quota,—

- (a) That candidate shall be elected; and
- (b) Subject to **clause 9** of this Schedule, where the candidate has a surplus, the surplus shall be transferred at the appropriate transfer value—
 - (i) To the continuing candidates who are the next preferences of the voters giving those first preference votes; and
 - (ii) Where no such continuing candidate is clearly indicated, to the total of non-transferable votes.

(2) Immediately after any transfer of votes under **subclause (1)** of this clause, the Returning Officer shall record—

- (a) The transfer value at which votes were transferred; and
- (b) The total votes for each candidate following the transfer, which shall be calculated,—

*New (Unanimous)*SECOND SCHEDULE—*continued*COUNTING OF VOTES—*continued*PART C—*continued**Elections to Fill More Than One Vacancy—continued*

(i) In the case of the candidate from whom votes were transferred, by deducting the amount of the surplus from the number of first preference votes; and

(ii) In the case of any other candidate, by adding, to the number of first preference votes for that candidate, the result of multiplying the number of votes transferred to that candidate by the transfer value of those votes; and

(c) The total non-transferable votes after that stage of the count, which shall be calculated by multiplying the number of such votes by the transfer value of those votes—

and shall ensure that the sum of the totals calculated under paragraphs (b) and (c) of this subclause is equal to the number determined under clause 7 (1) (a) of this Schedule.

(3) Where, at the end of any stage of the count involving the transfer of votes, the total votes for any candidate equals or exceeds the quota,—

(a) That candidate shall be elected; and

(b) Subject to clause 9 of this Schedule, where the candidate has a surplus, the surplus shall be transferred at the appropriate transfer value—

(i) To the continuing candidates who are the next preferences of the voters giving the votes transferred in that stage of the count; and

(ii) Where no such continuing candidate is clearly indicated, to the total of non-transferable votes.

(4) Immediately after any transfer of votes under subclause (3) of this clause the Returning Officer shall record—

(a) The transfer value at which votes were transferred; and

(b) The total votes for each candidate following the transfer, which shall be calculated,—

(i) In the case of the candidate from whom votes were transferred, by deducting the amount of the surplus from the total votes for that candidate; and

(ii) In the case of any other candidate, by adding, to the total number of votes for that candidate at the preceding stage of the count, the result of multiplying the number of votes transferred to that candidate by the transfer value of those votes; and

(c) The total non-transferable votes at that stage of the count, which shall be calculated by adding, to the total number of non-transferable votes at the preceding stage of the count, the result of multiplying the number of such votes transferred by the transfer value of those votes—

and shall ensure that the sum of the totals calculated under paragraphs (b) and (c) of this subclause is equal to the number determined under clause 7 (1) (a) of this Schedule.

New (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

Elections to Fill More Than One Vacancy—continued

(5) The count shall proceed in accordance with this clause until such time as—

(a) No candidate has a surplus, other than a surplus to which **subclause (7)** of this clause applies; or

(b) The total number of candidates to which **subclause (1) (a)** or **subclause (3) (a)** of this clause or **clause 10 (5)** or **clause 12** of this Schedule applies is equal to the number of members to be elected at the election.

(6) Each transfer under **subclause (1)** or **subclause (3)** of this clause shall constitute a stage of the count.

(7) Nothing in this clause shall require the transfer of a surplus that is—

(a) Less than the difference between the lowest total votes for any continuing candidate and the next lowest total votes for a continuing candidate after the immediately preceding stage of the count; or

(b) Less than the difference between the total votes for any continuing candidate and the sum of the total votes for all continuing candidates with a lower total vote than that candidate after the immediately preceding stage of the count.

9. Order of transfer of surpluses—If, before any stage of the count, 2 or more candidates have surpluses,—

(a) The largest of those surpluses shall be transferred first; but

(b) Where those surpluses are equal,—

(i) The surplus of the candidate who had the greatest total number of votes at the earliest preceding stage at which the candidates had an unequal total number of votes shall be transferred first; and

(ii) Where the total number of votes for candidates were equal at every stage of the count, the Returning Officer shall determine by lot which candidate's surplus shall be transferred first.

10. Exclusion of candidates—(1) Where—

(a) All surpluses, other than surpluses to which **clause 8 (7)** of this Schedule applies, have been transferred; and

(b) The total number of candidates to which **clause 8 (1) (a)** or **clause 8 (3) (a)** or **clause 12** of this Schedule or **subclause (5)** of this clause applies is less than the number of members to be elected at the election,—

the next stage of the count shall be the exclusion of candidates in accordance with this clause.

(2) The candidate or candidates excluded at each stage of the count shall be,—

*New (Unanimous)*SECOND SCHEDULE—*continued*COUNTING OF VOTES—*continued*PART C—*continued**Elections to Fill More Than One Vacancy—continued*

- (a) Where the total number of votes for any candidate exceeds the sum of the total number of votes for all candidates with fewer total votes, all of the last-mentioned candidates; and
- (b) In any other case, the candidate having the smallest number of votes.
- (3) Where any candidate is excluded under **subclause (2)** of this clause, each of the votes for the excluded candidate shall be transferred at the appropriate transfer value—
- (a) To the continuing candidates who are the next preferences of the voters giving the votes transferred at that stage of the count; and
- (b) Where no such continuing candidate is clearly indicated, to the total of non-transferable votes.
- (4) Immediately after any transfer of votes under **subclause (3)** of this clause the Returning Officer shall record—
- (a) The transfer values at which votes were transferred to each candidate; and
- (b) The total votes for each candidate following the transfer, which shall be,—
- (i) In the case of a candidate from whom votes were transferred, zero votes; and
- (ii) In the case of any other candidate, calculated by adding, to the total number of votes for that candidate at the preceding stage of the count, the result of multiplying the numbers of votes transferred to that candidate by the transfer values of those votes; and
- (c) The total non-transferable votes at that stage of the count, which shall be calculated by adding, to the total number of non-transferable votes at the preceding stage of the count, the result of multiplying the numbers of such votes transferred by the transfer value of those votes—
- and shall ensure that the sum of the totals calculated under **paragraphs (b) and (c)** of this subclause is equal to the number determined under **clause 7 (1) (a)** of this Schedule.
- (5) Where, following a transfer of votes under **subclause (3)** of this clause, the total votes for any candidate equals or exceeds the quota, the candidate shall be elected and any surplus shall be dealt with in accordance with **clause 8 (3)** of this Schedule.

11. Order of exclusion—(1) If, when 1 candidate has to be excluded, 2 or more candidates each have the same number of votes and are lowest, the candidate with the smallest total number of votes at the earliest stage of the count at which the candidates in question had an unequal total number of votes, shall be excluded.

New (Unanimous)

SECOND SCHEDULE—*continued*

COUNTING OF VOTES—*continued*

PART C—*continued*

Elections to Fill More Than One Vacancy—continued

(2) Where the total numbers of votes for candidates were equal at every stage of the count, the Returning Officer shall determine by lot which candidate shall be excluded first.

12. Filling of last vacancies—(1) If, at any stage of the count, the number of continuing candidates is equal to the number of vacancies remaining unfilled, those continuing candidates shall be elected.

(2) If, at any stage of the count,—

(a) A single vacancy remains unfilled; and

(b) The total number of votes for any continuing candidate equals or exceeds the sum of the total votes for all other continuing candidates together with any untransferred surplus,—
that continuing candidate shall be elected.

13. Order of election of candidates—(1) The order in which candidates whose votes equal or exceed the quota are elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for **clause 8 (7)** of this Schedule.

(2) Subject to **subclause (3)** of this clause, a candidate achieving a total number of votes equal to but not exceeding the quota at any stage of the count shall be regarded as being the last candidate elected at that stage of the count.

(3) Where it is not possible to differentiate between 2 or more candidates in terms of **subclause (1)** or **subclause (2)** of this clause, those candidates shall be deemed to have been elected at the same time.

Struck Out (Unanimous)

Section 12(1)

THIRD SCHEDULE

RECOUNT TO FILL AN EXTRAORDINARY VACANCY

PART A

General

1. Interpretation—In this Schedule, unless the context otherwise requires,—

“Consenting candidate” means a candidate not elected at the relevant election who consents to be included in a recount for a vacancy:

“Consent period” means the period within which written consent is required under **section 12(3)** of this Act:

“Relevant election” means the election last held to fill the office of the vacating member:

“Vacating member” means a member who is vacating the office to which he or she was elected at the relevant election.

Cf. Local Government Act 1993 (Tasmania), Schedule 8, cl. 1

PART B

Original Election for More Than One Member

2. One consenting candidate—If there is only one consenting candidate, the Returning Officer shall declare the candidate elected pursuant to section 18 of the principal Act.

3. More than one consenting candidate—If there are 2 or more consenting candidates, the Returning Officer shall, within 7 days after the end of the consent period, ascertain in accordance with this Schedule which consenting candidate shall be deemed to be elected:

Provided that where, either during or subsequent to the consent period, but before a recount is carried out pursuant to **this Part** of this Schedule, the Returning Officer receives notice of a further extraordinary vacancy in an elective office, he or she shall countermand the notice previously given in respect of the original vacancy and the procedures set out in **section 12(2)** and **(3)** of this Act shall be repeated.

4. Recounting of voting papers—(1) The Returning Officer shall recount all the voting papers counted at the relevant election in accordance with the provisions of **Part C** of the **Second Schedule** to this Act, as if to fill all vacancies originally filled.

(2) All voting papers indicating preferences for the vacating member or members, and for those candidates who were excluded at the relevant election and who are not consenting candidates in respect of a recount pursuant to **this Part** of this Schedule, shall be transferred to and counted for the remaining members elected at the relevant election and for the consenting candidates first or next in the order of the electors’ respective preferences.

(3) Subject to the requirement that no continuing candidate elected at the relevant election shall be excluded, the Returning Officer shall continue to recount the voting papers until the vacancy or vacancies are filled.

Struck Out (Unanimous)

THIRD SCHEDULE—*continued*

RECOUNT TO FILL AN EXTRAORDINARY VACANCY—*continued*

PART B—*continued*

5. Declaration of result—The Returning Officer shall declare the result of a recount pursuant to this Schedule in accordance with **section 9** of this Act.

Cf. Local Government Act 1993 (Tasmania), Schedule 8, cl. 3; Single Transferable Vote Regulations 1990 (Church of England), r. 22 (2)

PART C

Original (Excluding Mayoral) Election for a Single Member

6. Recounting of voting papers—(1) The Returning Officer shall recount all the voting papers counted at the relevant election in accordance with the provisions of **Part B** of the **Second Schedule** to this Act.

(2) In the recounting, the votes cast for the vacating member shall be counted as votes cast for the consenting candidate shown as the elector's next preference on the voting papers.

Cf. Local Government Act 1993 (Tasmania), Schedule 8, cl. 10

New (Unanimous)

THIRD SCHEDULE

Section 12 (2)

INDICATIVE RECOUNT

PART A

General

1. Interpretation—In this Schedule, unless the context otherwise requires,—

“Consenting candidate” means a candidate not elected at the relevant election who has given his or her written consent to appointment in accordance with **section 12 (3)** of this Act:

“Consent period” means the period within which written consent is required under **section 12 (3)** of this Act:

“Relevant election” means the election last held to fill the office of the vacating member:

“Vacating member” means a member who is vacating the office to which he or she was elected at the relevant election.

Cf. Local Government Act 1993 (Tasmania), Schedule 8, cl. 1

PART B

Original (Excluding Mayoral) Election for a Single Member

2. Recounting of votes—(1) The Returning Officer shall recount all the votes counted at the relevant election in accordance with the provisions of **Part B** of the **Second Schedule** to this Act.

*New (Unanimous)*THIRD SCHEDULE—*continued*INDICATIVE RECOUNT—*continued*PART B—*continued**Original (Excluding Mayoral) Election for a Single Member—continued*

(2) In the recounting, the votes cast for the vacating member shall be counted as votes cast for the consenting candidate shown as the next preference of the voters who gave those votes.

Cf. Local Government Act 1993 (Tasmania), Schedule 8, cl.10

3. Notification of result—The Returning Officer shall prepare and sign a certificate, in respect of the indicative recount, containing the information required by **section 9 (1)** of this Act, and shall forward that certificate to the local authority.

PART C

Original Election for More Than One Member

4. One consenting candidate—If there is only 1 consenting candidate, there shall be no indicative recount, and the Returning Officer shall notify the local authority that there was only 1 consenting candidate and of the name of that candidate.

5. More than one consenting candidate—(1) Subject to **subclause (2)** of this clause, if there are 2 or more consenting candidates, the Returning Officer shall, within 7 days after the end of the consent period, ascertain in accordance with this Schedule which consenting candidate would next have been elected.

(2) Where, either during or subsequent to the consent period, but before an indicative recount is carried out pursuant to this Part of this Schedule, the Returning Officer receives notice of a requirement to conduct a further indicative recount in respect of a further extraordinary vacancy, the recount shall be conducted to find the next 2 consenting candidates who would have been elected.

6. Recounting of votes—(1) The Returning Office shall recount all the votes counted at the relevant election in accordance with the provisions of **Part C** of the **Second Schedule** to this Act, as if to fill all vacancies originally filled.

(2) All votes indicating preferences for the vacating member or members, and for those candidates who were excluded at the relevant election and who are not consenting candidates in respect of a recount pursuant to this Part of this Schedule, shall be transferred to and counted for the consenting candidates first or next in the order of the voters' respective preferences.

(3) Subject to the requirements that no continuing candidate elected at the relevant election shall be excluded, the Returning Officer shall continue to recount the votes until a number of consenting candidates equal to the number of vacancies to be filled would, had the count been conducted in respect of an election, be elected.

New (Unanimous)

THIRD SCHEDULE—*continued*

INDICATIVE RECOUNT—*continued*

PART C—*continued*

Original Election for More Than One Member—continued

7. Notification of result—The Returning Officer shall prepare and sign a certificate, in respect of the indicative recount, containing the information required by **section 9 (1)** of this Act, and shall forward that certificate to the local authority.

New (Unanimous)

FOURTH SCHEDULE

Section 24

ENACTMENT AMENDED

Enactment	Amendment
<p>1974, No. 66—The Local Government Act 1974 (R.S. Vol. 25, p. 1)</p>	<p>By inserting in section 101L, after subsection (3), the following subsections:</p> <p>“(3A) In making any determination under subsection (1) or subsection (2) or subsection (3) of this section, the council and, where appropriate, the Commission shall have regard to the voting method to be used at the next general election of the territorial authority or regional council.</p> <p>“(3B) In subsection (3A) of this section, the term ‘voting method’ means—</p> <p>“(a) The first-past-the-post system as provided in the Local Elections and Polls Act 1976; or</p> <p>“(b) The single transferable vote system as provided in the Local Elections (Single Transferable Vote Option) Act 1995.”</p>