

[AS REPORTED FROM THE ELECTORAL LAW COMMITTEE]

House of Representatives, 21 June 1988.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Dr the Hon. Michael Bassett

LOCAL GOVERNMENT ELECTORAL LAW REFORM

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A BILL INTITULED

An Act to reform local government electoral law

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

No. 44—2

Price
incl. GST \$1.90

1. Short Title—This Act may be cited as the Local Government Electoral Law Reform Act 1988.

PART I

AMENDMENTS TO LOCAL ELECTIONS AND POLLS ACT 1976

2. This Part to be read with Local Elections and Polls Act 1976—This Part of this Act shall be read together with and deemed part of the Local Elections and Polls Act 1976* (in this Part of this Act referred to as the principal Act). 5

3. Method of conducting general election—The principal Act is hereby amended by inserting, after section 5, 10 the following section:

“5A. Where the first or any other general election of members of a local authority is to be held other than at the time prescribed by section 4 of this Act, the election shall be conducted in accordance with the provisions of this Act as if it 15 were an election to fill extraordinary vacancies.”

New

3A. Notice of election, nomination of candidates, and closing date for nominations—(1) Section 11 of the principal Act (as amended by section 2 (a) of the Local Elections 20 and Polls Amendment Act 1986) is hereby amended by omitting the expression “56”, and substituting the expression “70”.

(2) Section 2 (a) of the Local Elections and Polls Amendment Act 1986 is hereby consequentially repealed. 25

4. If number of candidates does not exceed number of vacancies, candidates to be declared elected—(1) Section 18 of the principal Act is hereby amended by omitting the word “immediately”, and substituting the words “as soon as practicable”. 30

New

(2) Section 18 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

“(2) Where a declaration is made under subsection (1) of this section in respect of any office or offices, the Returning Officer 35

New

pursuant to section 25 (6) of this Act a statement to the effect that the candidate or candidates nominated in respect of that office or those offices have been elected unopposed.”

5 **5. Form of voting papers**—Section 25 (4) of the principal Act is hereby amended by inserting, after the word “mechanical”, the words “or electronic”.

10 **6. Power to dispense with counterfoil**—The principal Act is hereby amended by inserting, after section 25, the following section:

“25A. Notwithstanding anything in section 25 of this Act, where at any election—

- 15 “(a) The voting papers are issued by mechanical or electronic means; and
- “ (b) The matter specified in Form 7 in the First Schedule to this Act is recorded in writing by mechanical or electronic means in respect of each voting paper,— it shall not be necessary for each voting paper to have a counterfoil.”

20 **7. Issue of voting papers**—Section 32 (4) of the principal Act (as amended by section 13 of the Local Elections and Polls Amendment Act 1982) is hereby amended by repealing paragraphs (a) to (d), and substituting the following paragraphs:

25 “(a) Unless a consecutive number has been printed on the voting paper and on the counterfoil, the Deputy Returning Officer shall enter—

“ (i) On the counterfoil or the written record made under section 25A (b) of this Act; and

30 “ (ii) On the voting paper,— a number (called a consecutive number), beginning with the number 1 in the case of the first voting paper issued by the Deputy Returning Officer, and on all succeeding voting papers issued by the Deputy Returning Officer the numbers shall be consecutive,

35 so that no 2 voting papers issued in the same polling booth shall bear the same number:

“(b) The Deputy Returning Officer shall effectively conceal the consecutive number on the voting paper:

40 “(c) On the counterfoil of the voting paper or on the record made under section 25A (b) of this Act, the Deputy

Returning Officer shall write, by hand or by mechanical or electronic means, the number appearing in the roll against the name of the elector, preceded, in any case where the names on the roll are numbered consecutively by pages, by the number of the page on which that name appears: 5

“(d) The Deputy Returning Officer shall place his or her official mark on—

“(i) The voting paper; and

“(ii) The counterfoil or the written record made under **section 25A (b)** of this Act,— 10

so that the polling booth in which the voting paper was issued may be identified.”

8. Spoilt voting papers—

New

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(1) Section 35 (2) of the principal Act is hereby amended by inserting, after the word “paper” where it last appears, the words “, or the written record made under **section 25A (b)** of this Act in respect of that voting paper, as the case may require,”. 20

(2) Section 35 (3) of the principal Act is hereby amended by inserting, after the word “counterfoil”, the words “or the written record made under (**section 25 (b)**) **section 25A (b)** of this Act”.

9. Procedure after close of voting—Section 39 (1) (a) of 25 the principal Act is hereby amended by repealing subparagraph (ii), and substituting the following subparagraph:

“(ii) All the counterfoils of voting papers that have been used at the election and all the written records made under **section 25A (b)** of this Act in respect of 30 voting papers that have been used at the election; and”.

10. Scrutiny of the roll—Section 41 of the principal Act is hereby amended by inserting in the proviso to subsection (1), after the word “mechanical”, the words “or electronic”. 35

11. Disposal of voting papers, rolls, etc.—Section 45 (1) (a) of this Act is hereby amended by inserting, after the words “counterfoils corresponding to those voting papers”, the words

“, and all records made under **section 25A (b)** of this Act in respect of those voting papers”.

12. Conduct of elections in combined local government area—Section 49 (2) (b) of the principal Act is hereby repealed.

Struck Out

13. Election to extraordinary vacancy—Section 50 (1) of the principal Act is hereby amended by repealing paragraph (a) of the proviso (as amended by section 4 (a) of the Local Elections and Polls Amendment Act 1986), and substituting the following paragraph:

“(a) Where notice of an extraordinary vacancy in any elective office is received by the Returning Officer on any day after the 8th day of November and before the 15th day of January of the following year, the day to be appointed for the election to fill the vacancy shall be a day not more than 56 clear days after the 15th day of January:”.

New

13. Election to extraordinary vacancy—(1) Section 50 (1) of the principal Act (as amended by section 4 (a) of the Local Elections and Polls Amendment Act 1986) is hereby amended by omitting the expression “56” in the first place where it appears, and substituting the expression “70”.

(2) Section 50 (1) of the principal Act is hereby further amended by repealing paragraph (a) of the proviso (as amended by section 4 (a) of the Local Elections and Polls Amendment Act 1986), and substituting the following paragraph:

“(a) Where notice of an extraordinary vacancy in any elective office is received by the Returning Officer on any day after the 8th day of November and before the 15th day of January of the following year, the day to be appointed for the election to fill the vacancy shall be a day not more than 70 clear days after the 15th day of January:”.

(3) Section 4 (a) of the Local Elections and Polls Amendment Act 1986 is hereby consequentially repealed.

14. Election to fill extraordinary vacancy in local authority—Section 51 (13) of the principal Act (as substituted by section 20 (1) of the Local Elections and Polls Amendment Act 1982) is hereby amended by repealing paragraph (b), and substituting the following paragraphs: 5

- “(b) Where the name of that elector does not appear on the roll of electors of the local authority or the relevant subdivision of that roll,—
- “(i) The name of the elector is included on the most recently published electoral roll for the Parliamentary electorate; and 10
- “(ii) The address in respect of which the elector is registered as a Parliamentary elector is within the relevant local government area or within the relevant subdivision of that area, as the case may 15 require; or
- “(c) A Registrar of Electors under the Electoral Act 1956 confirms that the elector who signed the demand is registered as a Parliamentary elector in respect of an address that is within the local government area or 20 within the relevant subdivision, as the case may require.”

15. Offences in respect of voting, voting papers, and ballot boxes—Section 56 (1) of the principal Act is hereby amended by inserting, after the words “voting paper”, the words “or on any envelope addressed to the Returning Officer pursuant to section 68 of this Act”. 25

New

15A. Issue of voting papers—Section 68 (1) of the principal Act is hereby amended by omitting the expression “8th”, and substituting the expression “10th”. 30

16. Sorting of envelopes on return—Section 74 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Where any of the information that the envelope bears pursuant to section 68 of the Act has been erased or altered, the Returning Officer shall not use that envelope for the purposes of the scrutiny of the roll pursuant to this section, but shall immediately return that envelope to a ballot box.” 35

17. Procedure after close of voting—(1) Section 77 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

5 “(1) From time to time, but before taking action pursuant to subsection (2) of this section, the Returning Officer shall cause to be made up into separate parcels—

10 “(a) All the counterfoils of voting papers that have been used at the election or all the records that have been made under **section 25A** of this Act in respect of voting papers that have been used at the election; and

“(b) All spoilt voting papers; and

“(c) All the unused voting papers—

15 “(i) With their counterfoils attached; or

“(ii) With the records made under **section 25A** of this Act in relation to them.”

(2) Section 77 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

20 “(3A) Where an envelope, on being opened, is found not to contain any voting papers,—

“(a) That envelope shall be set aside and shall not be taken into account in the scrutiny of the roll under section 78 of this Act; except that

25 “(b) Where that envelope has been taken into account in the scrutiny of the roll commenced under section 74 (2) of this Act, the Returning Officer, in completing the scrutiny under section 78 of this Act, shall cancel the marking on the roll indicating that the elector concerned appears to have voted.”

30 **18. Scrutiny of the roll**—(1) Section 78 (1) of the principal Act is hereby amended by adding the following proviso:

35 “Provided that the scrutiny of the roll may be carried out by mechanical or electronic means in the presence of the Returning Officer and such scrutineers as choose to be present.”

(2) Section 78 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

40 “(1A) Where an envelope addressed to the Returning Officer pursuant to section 68 of this Act cannot be used for the purposes of the scrutiny of the roll under this section because the matters specified in subsection (2) of that section have been erased from or obliterated on that envelope, the Returning Officer—

- “(a) Shall take such steps as he or she considers necessary to identify the elector who appears to have voted; and
 “(b) Shall mark the roll in respect of the elector in the manner specified in **subsection (1)** of this section.”

19. Persons committing irregularities to be prosecuted—Section 105 of the principal Act is hereby amended— 5

- (a) By omitting from paragraph (a) the expression “\$200”, and substituting the expression “\$2,000”; and
 (b) By omitting from paragraph (b) the expression “\$40”, and substituting the expression “\$1,000”; and 10
 (c) By omitting from paragraph (c) the expression “\$10”, and substituting the expression “\$500”.

20. Amendment to Third Schedule—(1) The Third Schedule to the principal Act is hereby amended by omitting 15 from the second column the first item relating to form 5 in the First Schedule to the principal Act, and substituting the following item:

“By omitting from form 5 the words ‘on [Date] at the following polling places’, and substituting the words ‘by postal vote conducted over the period from [Date] to [Date]. The final day for polling is [Date].’”

New

(2) The Third Schedule to the principal Act is hereby further 20 amended by omitting from the second column the three items relating to form 6 in the First Schedule to the principal Act, and substituting the following item:

“By omitting clauses 3 to 5 of the Directions to Voter in form 6, and substituting the following clauses:

“3. After voting, fold the voting paper and seal it in the enclosed envelope addressed to the Returning Officer.

“4. Post or deliver the envelope to the Returning Officer or any Deputy Returning Officer.

“5. 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.*] on [Date of election].

New

“6. If you spoil this voting paper, you may return it to the officer who issued it and apply for a special voting paper.”

21. Amendment to Local Authorities Loans Act 1956—
Section 34 of the Local Authorities Loans Act 1956 (as substituted by section 6 of the Local Authorities Loans Amendment Act 1986) is hereby amended by inserting, after subsection (7), the following subsection:

“(7A) Section 51 (13) of the Local Elections and Polls Act 1976 shall apply for the purpose of determining whether the persons who signed the petition are electors of the territorial authority district or of the part of the territorial authority district, as the case may require.”

PART II

AMENDMENTS TO LOCAL GOVERNMENT ACT 1974

22. This Part to be read with Local Government Act 1974—This Part of this Act shall be read together with and deemed part of the Local Government Act 1974* (in this Part of this Act referred to as the principal Act).

23. Parliamentary electors qualified for election to any regional council, territorial authority, district community council, or community council—Section 63 (1) of the principal Act (as substituted by section 6 of the Local Government Amendment Act 1986) is hereby amended by omitting the expression “section 12 (3)”, and substituting the expression “section 112 (3)”.

24. Compilation of electoral roll—Section 72 (1) of the principal Act (as enacted by section 7 of the Local Government Amendment Act 1986) is hereby amended by omitting the words “before the 1st day of July”, and substituting the words “during the month of July”.

25. Roll to be available for public inspection—Section 74 (3) of the principal Act (as enacted by section 7 of the Local Government Amendment Act 1986) is hereby amended by

*R.S. Vol. 5, p. 77

Amendments: 1980, No. 82; 1981, No. 13; 1981, No. 111; 1982, No. 3; 1982, No. 166; 1983, No. 132; 1984, No. 18; 1985, No. 60; 1986, No. 21; 1986, No. 24; 1986, No. 50; 1987, No. 149; 1987, No. 169

omitting the words “between the 8th and 22nd day of July (both days inclusive)”, and substituting the words “during the period of not less than 28 days before the closing of the roll”.

New

25A. Roll for by-election or poll—Section 80 of the principal Act (as substituted by section 7 of the Local Government Amendment Act 1986) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) The roll shall be corrected, completed, and certified in the time, manner, and form prescribed by this Part of this Act for the preparation of the electoral roll as if the date of the by-election or poll were the date of a triennial general election except that section 72 of this Act shall apply only in relation to the form of the roll to be compiled under subsection (1) of this section.”

26. Compilation of electoral roll—Section 707F(1) of the principal Act (as inserted by section 3 of the Local Government Amendment Act (No. 2) 1986) is hereby amended by omitting the words “before the 1st day of July”, and substituting the words “during the month of July”.

27. Roll to be available for public inspection—Section 707G of the principal Act (as inserted by section 3 of the Local Government Amendment Act (No. 2) 1986) is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The roll shall be open for public inspection at all reasonable hours during a period of not less than 28 days before the closing of the roll in the year in which the roll is compiled.”