

INTRODUCTION COPY

Mr G. E. Lee

LOCAL GOVERNMENT (SURVEY OF ELECTORS, AND QUALIFICATION OF ELECTORS) AMENDMENT

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A BILL INTITULED

- An Act to amend the Local Government Act 1974 by—**
- (a) Amending the provisions relating to surveys of electors; and
 - 5 (b) Amending the provisions relating to the qualification requirements of electors

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 Government (Survey of Electors and Qualification of Electors) Amendment Act 1987, and shall be read together with and deemed part of the Local Government Act 1974 (hereinafter referred to as the principal Act). 5

(2) This Act shall come into force on the 1st day of April 1988.

PART I

SURVEYS OF ELECTORS

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2. Conduct of survey—Section 29 of the principal Act (as substituted by section 8 of the Local Government Amendment Act 1985) is hereby amended by omitting from subsection (3) the words “rolls of all the districts”, and substituting the words “roll of any one of the districts”. 15

3. Action to be taken after survey taken—Section 30 of the principal Act is hereby amended by repealing subsection (2) and substituting the following subsection:

“(2) The Commission shall upon receipt of all the certificates relating to any survey, give notice to the territorial authorities concerned and public notice of the content of the certificates received under subsection (1) of this section and whether or not the proposal cannot be proceeded with by virtue of section 31 (1) of this Act.” 20

4. Fate of proposal after survey—The principal Act is hereby amended by repealing section 31 (as substituted by section 8 of the Local Government Amendment Act 1985), and substituting the following section: 25

“31. (1) Where at a survey conducted under section 29 of this Act the number of electors in any one of the districts in which the survey was taken who have validly recorded their opposition to the proposal is more than 50 percent of the total number of electors on the roll of that district used for the survey, the Commission shall not proceed with that proposal. 30

“(2) Where the Commission is not prohibited by subsection (1) of this section from proceeding with a proposal, the Commission shall decide whether or not to prepare and issue a provisional reorganisation scheme and without limiting the matters that may be considered by the Commission, the 35

Commission may in making that decision have regard to the results of the survey.”

PART II

QUALIFICATION OF ELECTORS

5 **5. Qualification of electors of district of territorial authority or community.**—The principal Act is hereby amended by repealing sections 69 to 83 (as enacted by section 7 of the Local Government Amendment Act 1986) and substituting the following headings and sections:

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“Electors

“69. Qualification of electors of district of territorial authority or community—(1) Subject to this Act and to section 110 of the Local Elections and Polls Act 1976, every person of or over the age of 18 years shall be qualified to be an elector of the district of a territorial authority or of a ward thereof or of a community if—

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20 “(a) He has a rating qualification by reason of the fact that his name appears for the time being in the “Occupiers” column in the valuation roll for the district in respect of rateable property in the district or ward or community, as the case may be; or

25 “(b) He has a residential qualification by reason of the fact that he has resided for one year in New Zealand and has resided in the district or ward or community, as the case may be, for not less than 3 months immediately preceding the date of his application for enrolment.

30 “(2) Notwithstanding anything in subsection (1) of this section, a person shall not be qualified for enrolment as an elector if—

35 “(a) He has found by a Court or a Judge to be under disability or, having been acquitted on account of insanity, within the meaning of Part VII of the Criminal Justice Act 1985, he is detained as a special patient or a committed patient in a hospital under the Mental Health Act 1969 pursuant to an order or direction under any of the provisions of sections 115 to 120 of the Criminal Justice Act 1985; or

40 “(b) Having been found by a Court, on conviction of any offence, to be mentally disordered, he is detained as a committed patient in a hospital under the Mental

Health Act 1969 pursuant to an order under section 115 of the Criminal Justice Act 1985; or

“(c) He is detained in any psychiatric hospital under section 43 of the Mental Health Act 1969; or

“(d) He is detained pursuant to a conviction in any penal institution. 5

“70. **Determination of residence**—(1) For the purposes of section 69 (1) (b) and section 71 of this Act, a person shall be deemed to reside in the place in which he has his permanent home. 10

“(2) Where any area has been added to the district of a territorial authority or any ward thereof or to any community, whether before or after the commencement of this section, every person who has resided in that area during any period before it was so added shall be deemed for the purposes of section 69 (1) (b) and section 71 of this Act to have resided during that period in the district or ward or community, as the case may be. 15

“71. **Qualification of electors of regional council**—Subject to this Act, every person of or over the age of 18 years shall be qualified and be deemed always to have been qualified to be an elector of a region that is within the jurisdiction of a regional council, if he has a residential qualification by reason of the fact that he has resided for one year in New Zealand and has resided in the region for not less than 3 months then last past (notwithstanding that his name may be entered on the electoral roll of a constituent district as having a rating qualification). 20 25

“Electoral Rolls

“72. **Electors and voting power**—Subject to section 37 of the Local Elections and Polls Act 1976, every person whose name appears on the roll of electors for the time being in force for any district, ward, or community shall, unless he has ceased to possess a qualification as an elector, be an elector under this Act and shall be entitled to exercise one vote— 30 35

“(a) At every election taken under this Act for which that roll is used:

“(b) At every poll taken on a proposal which is submitted to electors, pursuant to this Act or any other Act, for which that roll is used; 40

Provided that a person shall be entitled to exercise a vote at a poll if, he possesses a

qualification as an elector in the area over which the poll is taken:

5 Provided also that, except as provided in any other Act, a person shall be entitled to exercise a vote at a poll taken on any proposal relating to loans or rates if, and only if, he is an elector as defined in section 69 of this Act possessing a rating qualification in the area over which the poll is taken.

10 **“73. Constituency electors to vote in own constituency—**Subject to section 20 (3) of the Local Elections and Polls Act 1976, in the case of an election for the member or members to represent a constituency of a region, or in the case of a poll in any such region, an elector shall vote, whether as an ordinary voter or a special voter, only in the constituency, or, 15 where the constituency comprises 2 or more constituent districts, only in the constituent district, in respect of which he possesses a qualification as an elector.

20 **“74. Preparation of district electoral roll—**(1) Subject to section 69 of this Act, in every year in which a general election is to be held, the principal officer of every territorial authority shall, on or before the 30th day of June in that year, compile in the prescribed manner and form an electoral roll for the district, to be known as the electoral roll, containing the names, arranged in alphabetical order of their surnames, of—

25 “(a) Every person who has a rating qualification in respect of rateable property in the district:

30 “(b) Every person whose name appeared on the electoral roll for the immediately preceding general election as having a residential qualification, and who was a candidate at or voted at that election or any subsequent election of a member or members of the territorial authority or of the Mayor, unless to the principal officer’s knowledge that person has ceased to possess a residential qualification:

35 “(c) Every other person who makes a claim in the prescribed form that he is entitled by reason of a residential qualification to have his name entered on the roll, unless to the principal officer’s knowledge any statement made by the applicant in his claim is untrue:

40 “(d) Every other person who to the principal officer’s knowledge is entitled by virtue of section 69 of this Act to have his name entered on the roll; and for the

purposes of this paragraph the fact that the name of any person appears on the electoral roll under the Electoral Act 1956 and his address on that roll is within the district may be accepted by the principal officer as sufficient evidence that that person is entitled to have his name entered on the roll. 5

“(2) In the case of a divided district, the electoral roll shall be comprised of—

“(a) Separate rolls for each ward in the district; or

“(b) A single roll in which the ward in which each elector has his qualification shall be appropriately identified. 10

“(3) Where a district contains a community which is not co-extensive with a ward, a separate electoral roll may be compiled for that community.

“(4) Any separate roll prepared for a ward or a community under subsection (2) or subsection (3) of this section shall be deemed to form part of the electoral roll. 15

“(5) Notwithstanding anything in this section, the principal officer shall from time to time take such steps as he thinks fit to obtain the enrolment of all persons who are qualified to vote but whose names are not on the electoral roll. 20

“75. **No person to be enrolled more than once**—(1) The name of any person shall not appear more than once on the electoral roll of an undivided district or on the electoral roll of any ward of a divided district or on the electoral roll of any community. 25

“(2) Where a person has a rating qualification and a residential qualification, his name shall be entered on the electoral roll in respect of his rating qualification only. Nothing in this subsection shall restrict any power conferred on the principal officer by section 86 of this Act. 30

“(3) In the case of a divided district, the name of any person shall not appear on the electoral roll for more than one ward.

“(4) Notwithstanding subsection (2) of this section, any person having rating or residential qualifications in more than one ward may select the ward for which his name shall be entered on the roll; and, if he does not make that selection, the principal administrative officer may select the ward for which that person's name shall be entered on the roll. 35

“(5) The selection by the principal officer of the ward for which a person's name shall be entered on the roll shall be binding unless the person notifies the principal officer, before the date of the close of the roll as determined under section 40

111 (1) of the Local Elections and Polls Act 1976, of his desire to have his name entered on the roll of any other ward in respect of which he has a qualification.

5 “76. **False claim for enrolment**—Every person commits an offence who wilfully makes a false claim to have his name entered on any electoral roll.

10 “77. **Principal officer may omit certain persons from roll**—(1) The principal officer may at any time omit from the electoral roll the name of any person whose name appeared on the roll for the immediately preceding general election as having a residential qualification, of—

“ (a) That person—

15 “ (i) Being qualified to vote and not being a candidate, did not vote at that election; and

“ (ii) Having been given subsequent notice that his name is to be omitted from the roll, has not applied in the prescribed form for his name to be entered on the roll:

20 Provided that this paragraph shall not apply with respect to any person who has voted at any one of any subsequent elections of a member or members of the council or of the Mayor at which he was entitled to vote”

25 “ (b) That person has to the principal officer’s knowledge ceased to possess a residential qualification.

30 “ (2) A notice given to any person under subsection (1) of this section shall, if given by post, be sent to him at the address appearing to the principal officer to be his last-known address, whether or not that address is the address appearing on the roll for the preceding general election.

35 “78. **Deposit of rolls for public inspection**—A copy of the electoral roll shall be kept at the office of the territorial authority; and, where separate ward rolls or a separate community roll are prepared, a copy of the roll of electors of each ward or community, as the case may require, shall be kept at some place in the ward or community of which the council shall cause public notice to be given; and that roll or those rolls shall be open to public inspection at all reasonable hours between the 8th and 22nd day of July (both days inclusive) in
40 the year in which the roll is compiled.

“79. Objections to roll—(1) Any person may, not later than the said 22nd day of July, object to a roll prepared under section 74 of this Act on either of the following grounds:

“(a) That any person whose name is on the roll does not possess the necessary qualification at the time when the objection is lodged; or 5

“(b) That any person whose name is not on the roll possesses the necessary qualification at the time when the objection is lodged, and is entitled to have his name inserted. 10

“(2) Every objection shall be lodged in writing with the principal officer of the territorial authority of the district, who shall, as soon as possible after receipt of the objection, inquire into the objection and determine whether or not it should be allowed. 15

“(3) The principal officer shall advise the objector, in writing, of his decision.

“80. Amendment of roll—(1) Where any objection as aforesaid has been allowed, the principal officer shall amend the roll for the district, ward, or community, as the case may require, by adding to the roll the name of any person who then in fact possesses the necessary qualification but is not entered thereon, or by removing the name of any person who does not then in fact possess the necessary qualification but is entered thereon. 20 25

“(2) The principal officer shall also from time to time make in the electoral roll for the district or for any ward or community any necessary corrections in the names, occupations, addresses, and qualifications of persons enrolled thereon.

“(3) Where the name of any person is removed from the electoral roll for the district or for any ward or community for any reason, other than the death of that person, the principal officer shall forthwith give to that person notice in writing of that removal addressed to him at that person’s last-known address, whether or not that address is the address appearing on the roll. 30 35

“81. Appeals to District Court Judge in respect of electoral roll—(1) Any person aggrieved by any decision or act of the principal officer touching or concerning the electoral roll, may, in the prescribed manner and within the prescribed time, appeal therefrom to a District Court Judge, who shall hear and determine the appeal, and may order the addition to the roll of the name of any person who possesses the necessary 40

qualification and the removal of the name of any person who does not possess the necessary qualification but is entered thereon.

5 “(2) All such alterations and additions shall be made by the principal officer and initialled by the District Court Judge.

“82. **When roll in force, and amendment thereto—**

(1) The electoral roll shall be completed and authenticated in the prescribed manner and time, and shall on the 1st day of September next ensuring become the roll and shall remain in
10 force until another roll comes in force.

“ (2) Notwithstanding subsection (1) of this section, the principal officer may, after the 1st day of September in the year in which the roll is compiled,—

15 “(a) Add to the roll the name of any person who to his knowledge possesses the necessary qualification to be enrolled; or

“ (b) Omit from the roll the name of any person who to his knowledge has ceased to possess the necessary qualification; or

20 “(c) Make in the roll any necessary corrections in the statement of the names or addresses of persons enrolled thereon.

“ (3) Except where the name of any person is removed from the roll,—

25 “(a) Because of the death of that person; or

“ (b) Because that person to the knowledge of the principal officer, has left the district,—

notice in writing of the removal shall forthwith be given by the principal officer to the person whose name is so removed, and,
30 if given by post, shall be sent to him at the address appearing to the principal officer to be that person’s last-known address, whether or not that address is the address appearing on the roll for the last preceding general election.

“ (4) All corrections and additions required to be made after
35 the completion of the roll shall be made on a supplementary roll, which shall be corrected, complete, and authenticated in the same manner as in the case of the roll, and shall thereupon form part of the roll, whether or not they are compiled in a separate document.

40 “(5) For the purpose of conducting any election or poll, a copy of the electoral roll and of all supplementary electoral rolls, in each case completed and authenticated as aforesaid,

may be printed together as one document, and shall be deemed to be a copy of the electoral roll.

“(6) Where from any cause the roll of any district, ward, or community is not made out and completed so as to come into force at the time prescribed by this Act, the then existing roll of that district, ward, or community, as the case may be, shall continue in force until a new roll is made out and completed. 5

“83. **Proof of rolls**—(1) Any copy of the electoral roll certified by the principal officer or an authorised officer of the council to be a correct copy of the electoral roll, or of any roll formed under this Act, shall, unless the contrary is proved, be proof that the roll has been duly made. 10

“(2) The fact that a copy of any such roll has been certified to be a correct copy of any person purporting to be an authorised officer of the council shall be sufficient evidence that he is duly authorised to do so. 15

“84. **Revision of rolls**—(1) Notwithstanding anything in section 77 of this Act, the principal officer—

“(a) May from time to time, but shall, at intervals not exceeding 6 years, direct an inquiry to be made, in such manner as he thinks fit, as to the qualification of every person whose name appears on the electoral roll for the district or for any ward or community as having a residential qualification; and 20

“(b) Shall take such steps as the principal officer thinks fit to obtain the enrolment of every person whose name does not appear on any such roll but is qualified to be included on the roll. 25

“(2) If after such inquiry the principal officer believes on reasonable grounds that a person whose name appears on the roll is deceased or has ceased to be qualified as an elector of the district or ward or community, as the case may be, the name of that person shall be removed from the roll. 30

“(3) Where the name of any person is removed from the roll pursuant to subsection (2) of this section (otherwise than by reason of the death of that person), notice in writing addressed to him at his last-known address, whether or not that address is the address appearing on the roll, shall forthwith be given to him by the principal officer informing him that his name has been so removed. 35 40

“85. **Rolls for purposes of by-elections and polls**—
(1) For the purpose of conducting an election to fill an extraordinary vacancy, or for the taking of a poll of the electors

of all or part of a district or of any of those electors, the principal officer of the territorial authority shall prepare an electoral roll in accordance with subsection (2) of this section comprising the names of all electors entitled to vote at the
5 election or poll, but so that the name of any person shall not appear more than once on that roll.

“(2) The roll to be prepared under subsection (1) of this section shall be prepared—

- “(a) By preparing a new roll for the purpose; or
10 “(b) By striking out from an official copy of the roll or of the appropriate roll or rolls of any one or more wards or communities the name of every person who is not entitled to vote at the election or poll; or
“(c) By indicating by appropriate words, abbreviations, or
15 marks on an official copy of the electoral roll or of the appropriate roll or rolls of any one or more wards or communities the name of every person whose name appears on any such roll and who is entitled to vote at the election or poll.

20 “(3) It shall not be necessary to take any action under this section where a poll is being conducted together with and over the same area as a general election.

“(4) The roll shall with the necessary modifications be corrected, completed, and authenticated in the time, manner,
25 and form prescribed by this Part of this Act for the preparation of the electoral roll.

“86. **Use of rolls for other local authority elections and polls**—(1) Where the electoral roll of any district, ward, or community is to be used for the purposes of any election of
30 members of any other local authority or public body or for any poll of electors of any other local authority or public body, and the electoral qualifications applying to the election or poll are different from those applying in the district, the principal officer of the territorial authority may—

- 35 “(a) Prepare a new roll for the purpose; or
“(b) Add to or omit from an official copy of the electoral roll of the district or the appropriate roll or rolls if any one or more wards or communities the name of every person who is entitled to vote, or, as the case
40 may be, not entitled to vote, at the election or poll; or
“(c) Indicate by appropriate words, abbreviations, or marks on an official copy of the electoral roll of the district

or of the appropriate roll or rolls of electors of any one or more wards or communities the name of every person whose name appears on any such roll and who is entitled to vote at the election or poll.

“(2) For the purposes of subsection (1) of this section, the principal officer of the territorial authority shall take all reasonable steps to ascertain whether any person whose name appears on the electoral roll as having a rating qualification in respect of the area over which the election or poll is to be held also possesses a residential qualification in respect of that area. 5 10

“(3) The roll shall with the necessary modifications be corrected, completed, and authenticated in the time, manner, and form prescribed with respect to the electoral roll of the district.

“(4) The cost, or a fair proportion therefore, of preparing, amending, and printing the roll, as agreed between the territorial authority for the district and other local authority or public body concerned, shall be paid by that other local authority or other public body concerned, and in the case of dispute the amount shall be fixed by the Audit Office. 15 20

“(5) This section shall be read subject to section 110 of the Local Elections and Polls Act 1976.

“87. Special provisions relating to regional council elections—(1) Subject to subsection (2) of this section, where a constituent district comprises the whole of a constituency, the Returning Officer of the constituent authority shall be the Returning Officer for the purposes of elections of members of the regional council by the electors of that constituent district. 25

“(2) Where a constituency comprises part or all of 2 or more constituent districts— 30

“(a) The regional council, when it reviews the membership of the council under section 43 of this Act, or the Commission if it varies the determination of the council under section 44 of this Act, shall appoint one of the constituent authorities whose district comprises part of the constituency to be the principal authority for the purposes of electors of that constituency; and 35

“(b) Section 49 of the Local Elections and Polls Act 1976 shall apply to that constituency as if it were a combined local government area under that Act. 40

“88. Local Elections and Polls Act 1976 applied—(1) All elections under this Act, and all polls taken on any proposals

under this Act or under any other Act for which any roll prepared under this Act is used (including an election of members of a district community council or community council) shall, subject to this Act, be held and conducted under
5 the provisions in that behalf of the Local Elections and Polls Act 1976.

“(2) Except where otherwise expressly provided in any case, the majority required to determine any election or carry any proposal shall be a majority of the valid votes cast at the
10 election or poll.

“(3) In proceedings for the raising of loans, this section shall be read subject to the Local Authorities Loans Act 1956.

“89. Compulsory enrolment of residential electors—

(1) Every person who is entitled by virtue of a residential
15 qualification to be enrolled on any electoral roll of a territorial authority and is not enrolled thereon, shall forthwith after the date on which he becomes so entitled make a claim in the prescribed form to be enrolled on the electoral roll.

“(2) Every such person commits an offence if, for 21 days
20 after the date on which he becomes so entitled, he fails to become enrolled on the electoral roll, unless he proves that he duly made a claim for enrolment thereon or that his failure to make a claim for enrolment was not due to wilful default.

“(3) Every such offence shall be a continuing offence until a
25 claim for enrolment has been duly made.

“(4) Every person who commits an offence against this section is liable to a fine not exceeding \$20 on a first conviction and to a fine not exceeding \$50 on any subsequent conviction.”