

House of Representatives

Supplementary Order Paper

Tuesday, 28 November 2000

New Zealand Public Health and Disability Bill

Proposed amendments

Rod Donald, in Committee, to move the following amendments:

Clause 83

To omit subclause (1)(h) (lines 26 to 28 on page 65).

Schedule 2

To insert in clause 1 (on page 93), in their appropriate alphabetical order, the following definitions:

absolute majority of votes has the meaning given to it by **clause 1 of Appendix 2**

final absolute majority of votes has the same meaning given to the term **absolute majority of votes** by **clause 1 of Appendix 2**, and refers to the final determination of the number so calculated

final keep value has the same meaning given to the term **keep value** by **clause 1 of Appendix 2**, and refers to the final determination of the fraction calculated in accordance with **clause 3(9) of Appendix 2**

final quota has the same meaning given to the term **quota** by **clause 1 of Appendix 2**, and refers to the final determination of the number so calculated

first preference means the figure "1" or any mark or word that clearly indicates a first (or only) preference

initial absolute majority of votes has the same meaning given to the term **absolute majority of votes** by **clause 1 of Appendix 2**, and refers to the initial determination of the number so calculated

initial quota has the same meaning given to the term **quota** by **clause 1 of Appendix 2**, and refers to the initial determination of the number so calculated

keep value has the meaning given to it by **clause 1 of Appendix 2**

next preference has the meaning given to it by **clause 1 of Appendix 2**

quota has the meaning given to it by **clause 1 of Appendix 2**

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 point in the count at which he or she is excluded from the election, or at the completion of the count, as the case may be

transferred vote means a vote or part of a vote transferred from 1 candidate to another candidate for whom the voter has indicated a second or subsequent preference

vacating member has the meaning given to it by **clause 1 of Appendix 3**.

To add the following subclause to clause 1 (after line 14 on page 93):

- (2) The appendices to this schedule are an integral part of the schedule.

To insert, after clause 1A(a) (after line 5 on page 94), the following paragraph:

- (aa) to provide that DHB elections are to be held under the single transferable vote system:

To omit from clause 7(2) the words “and to any regulations made under this Act”(lines 34 to 35 on page 95).

To insert, after clause 11 (after line 4 on page 97), the following new cross heading and new clauses 11A to 11J:

Method of voting to be single transferable vote system

11A Application of single transferable vote system

Elections of members of DHBs must be held under the single transferable vote system in accordance with this schedule.

11B Form of voting paper

- (1) The voting paper to be used at every election of a DHB must—
- (a) be in the form in **Appendix 1**; and
 - (b) set out the names of the candidates in computer-generated pseudo-random order of surnames; and
 - (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
 - (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.
- (2) The Returning Officer may combine the voting paper to be used at an election of a DHB with the voting paper or papers to be used at any other election or elections or poll or polls to be conducted simultaneously with such election.
- (3) Where the Returning Officer combines voting papers under **subclause (2)**, the combined voting paper—
 - (a) may be of the 1 colour; and
 - (b) must have 1 counterfoil only; and
 - (c) must bear, on any part that can be detached from any other part, the consecutive number and the official mark; and
 - (d) must be combined in such a manner as to enable the Returning Officer to detach the voting paper to be used at the election of a DHB from any other voting paper; and
 - (e) must, where the voting paper is combined with the voting paper for 1 or more elections or polls not held under this schedule, bear or be accompanied by a prominent notice—
 - (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.

11C Method of voting

- (1) Each elector has a single 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—
 - (i) when the vote is not wholly 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 election.
- (2) The elector, on receiving the voting papers forwarded by the Returning Officer, must alone and secretly on each voting paper exercise his or her vote—
 - (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 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.
- (3) Nothing in this clause derogates from the application of section 69(2) and (3) of the Local Elections and Polls Act 1976 to voting in an election held under this schedule.

11D Procedure after close of voting

In its application to an election held under this schedule, section 77 of the Local Elections and Polls Act 1976 is to be read as if—

- (a) for each occurrence of the expression “number of votes”, there is substituted the expression “number of first preference votes”; and
- (b) there is inserted, between the words “papers” and “shall” in section 77(6), the words “on which the voter has not clearly indicated a first preference for 1 of the candidates”.

11E Votes cast for retired or withdrawn candidates

- (1) Where, at an election of a member or members of a DHB, a candidate has retired or withdrawn from the election pursuant to section 21 or section 23 of the Local Elections and Polls Act 1976, the Returning Officer must, unless the election has become unnecessary through the application of those provisions, cause the first preference votes that have been cast for the retired or withdrawn candidate or candidates, to be transferred to and counted as first preference votes for the candidate shown as the elector’s next preference on the voting papers.
- (2) Voting papers to which the provisions of **subclause (1)** apply and on which no next preference has been given are void.

11F Official count

- (1) In this clause, the term “supervising Returning Officer” means the Returning Officer appointed to be a supervising Returning Officer by virtue of section 5C(1) of the Local Elections and Polls Act 1976.
- (2) The official count of an election of a DHB must be conducted by the supervising Returning Officer.
- (3) The Returning Officers responsible for conducting the election must, 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 with **sub-clauses (4) and (5)**.

- (4) Voting papers required to be forwarded under **subclause (3)** must be forwarded—
 - (a) by such secure method as is agreed between the Returning Officer and the supervising Returning Officer; and
 - (b) in the parcels referred to in section 77(9) of the Local Elections and Polls Act 1976, together with such other parcels as the Returning Officer considers appropriate, which must be sealed and certified in the same manner as the parcels referred to in that section.
- (5) Where voting papers are forwarded under **subclause (4)**, the Returning Officer must forward separately to the supervising Returning Officer an inventory of the parcels so forwarded.
- (6) Before commencing the official count under **subclause (7)(a)**, the Returning Officer must reject as informal any voting paper on which the voter has not clearly indicated a first preference for one of the candidates.
- (7) The official count at every election held under this schedule—
 - (a) must be conducted in accordance with the procedures set out in **Appendix 2**; and
 - (b) must not be conducted in accordance with the procedures set out in section 42 of the Local Elections and Polls Act 1976.

11G Official results

- (1) On completion of the official count under **clause 11F**, the Returning Officer must prepare and sign a certificate stating—
 - (a) the total number of voting papers, other than spoilt voting papers and papers rejected under section 78(2) of the Local Elections and Polls Act 1976, 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
 - (d) where the election was to fill multiple vacancies,—
 - (i) the initial quota; and
 - (ii) the quota at each point in the count at which a candidate was elected or excluded from the election; and
 - (iii) the number of votes for each candidate, including first preference votes and transferred votes, at each point in the count at which a candidate was elected or excluded from the election; and
 - (iv) the keep value for each candidate at each point in the count at which a candidate was elected or excluded from the election; and

- (v) the names of the candidates declared to be elected in descending order of election; or
- (e) where the election was to fill a single vacancy,—
 - (i) the initial absolute majority of votes required for election; and
 - (ii) the absolute majority of votes required for election at each point in the count at which a candidate was excluded from the election; and
 - (iii) the number of votes for each candidate, including first preference votes and transferred votes, at each point in the count at which a candidate was excluded from the election; and
 - (iv) the name of the candidate declared to be elected.
- (2) A copy of the certificate prepared under **subclause (1)** must—
 - (a) be sent to each candidate at the election; and
 - (b) be kept in every public office of the DHB; 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 **subclause (3)**.
- (3) As soon as practicable after the completion of the official count, the Returning Officer must, by public notice, declare the result of the election.
- (4) Where the election was to fill multiple vacancies, the public notice under **subclause (3)** must—
 - (a) list—
 - (i) the names and political accreditations (if any) of the candidates declared to be elected, in descending order of election; and
 - (ii) the number of first preference votes for each such candidate; and
 - (iii) the total number of votes for each such candidate; and
 - (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
 - (iii) the total number of votes for each such candidate; and
 - (c) state—
 - (i) the initial quota; and
 - (ii) the final quota; and
 - (iii) the final keep value for each candidate; and
 - (d) give notice that the certificate prepared under **subclause (1)** is available for public inspection, and the places and times at which it can be inspected.
- (5) Where the election was to fill a single vacancy, the public notice under **subclause (3)** must—

- (a) state—
 - (i) the name and political accreditation (if any) of the candidate declared to be elected; and
 - (ii) the number of first preference votes for the elected candidate; and
 - (iii) the total number of votes for the elected candidate; and
 - (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
 - (iii) the total number of votes for each such candidate; and
 - (c) state—
 - (i) the initial absolute majority of votes required for election; and
 - (ii) the final absolute majority of votes required for election; and
 - (d) give notice that the certificate prepared under **subclause (1)** is available for public inspection, and the places and times at which it can be inspected.
- (6) In **subclause (1)(d)**, “point in the count” means any point at which the processes that are performed using computer technology, that—
- (a) determine the number of first preference votes for each candidate; or
 - (b) transfer the surpluses of elected candidates and the votes of excluded candidates,—
- culminate in a candidate being elected or excluded from the election.

11H Death or incapacity of elected candidate before declaration of result of election

- (1) Where, after the close of voting at an election held under this schedule, the Returning Officer is satisfied that any candidate has died or become incapable under any Act of holding the office for which he or she is a candidate and the death or incapacity occurs—
- (a) before the declaration of the result of the election in accordance with **clause 11G(3)**; or
 - (b) where a recount is applied for and an amended declaration of the result of the election is ordered under section 43(8) of the Local Elections and Polls Act 1976, before that amended declaration has been given,—
- and that candidate would, but for his or her death or incapacity, have been declared to be elected, the Returning Officer must, unless the election has become unnecessary through the

death or incapacity of the candidate, cause a recount to be made of the voting papers used in the election to ascertain the candidate who would otherwise have been declared to be elected had the deceased or incapacitated candidate not stood at the election.

- (2) Every recount under **subclause (1)** must be held in accordance with the procedures set out in **Appendix 3**, except that those candidates excluded from the election are deemed to be consenting candidates (as defined in **clause 1** of that appendix) for the purposes of the recount.
- (3) After the completion of the recount under **subclause (1)**, the Returning Officer must declare to be elected the other successful candidates (if any) at the election and the candidate whom the recount determined would otherwise have been declared to be elected under **clause 11G(3)** or under section 43(8) of the Local Elections and Polls Act 1976, as the case may be.

11I Forfeiture of deposit and refund of deposit

- (1) If the total number of votes of a candidate is less than,—
 - (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 final quota,—the deposit made under section 14 of the Local Elections and Polls Act 1976 is forfeited and paid into the general fund or account of the DHB.
- (2) The deposit must be returned to the person who paid it or, as the case may require, to his or her personal representatives—
 - (a) where **subclause (1)** does not apply; or
 - (b) where any candidate—
 - (i) withdraws or retires; or
 - (ii) is elected without a poll; or
 - (iii) dies before the close of nominations; or
 - (iv) 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 Local Elections and Polls Act 1976 applies in relation to any election held under this schedule.

11J Indicative recount for extraordinary vacancies

- (1) Where—
 - (a) the immediately preceding election of a DHB was held under this schedule; and
 - (b) an extraordinary vacancy has occurred in the membership; and

- (c) the DHB is empowered to fill that extraordinary vacancy by appointment,—
the DHB may direct that an indicative recount of the voting papers used in the election be held to ascertain the candidate who would otherwise have been declared to be elected (being a candidate who has given his or her written consent to appointment in accordance with **subclause (3)**) had the vacating member, and any candidate at that election who has not given his or her written consent to appointment in accordance with **subclause (3)**, not stood at that election.
- (2) Every indicative recount must be held in accordance with the procedures set out in **Appendix 3**.
- (3) Before commencing an indicative recount under this clause, but without undue delay, the Returning Officer must 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 DHB so wishes.

To add the following new appendices (after line 30 on page 99):

Appendix 1 to Schedule 2
Form of voting paper at an election

Directions to Voter

(Read carefully before voting)

1. Vote by placing a “1” beside the name of the candidate who is your first preference, a “2” beside your second preference, a “3” beside your third preference and so on.
2. You should continue to express preferences **only** as long as you are able to place successive candidates in order. You may express as many or as few preferences as you wish. You **do not** have to include **all** the candidates in your preference list if you do not wish to do so.
3. It is not only which candidates you choose to mark that is important. Which candidate gets which preference number matters a great deal also.
4. Under no circumstances can a later preference count against an earlier preference.
5. The voting paper will be set aside as informal if the figure “1” is omitted from your list of preferences or is placed opposite more than one name.

6. Do NOT vote with a " ✓ ".
7. After voting, fold the voting paper and seal it in the enclosed envelope addressed to the Returning Officer.
8. Post or deliver the envelope to the Returning Officer or any Deputy Returning Officer.
9. 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*].
10. If you spoil this voting paper, you may return it to the officer who issued it and apply for a special voting paper.

[*Name of DHB area*]

Election of [*Insert number*] Members

Candidates appear in random order

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

NOTES*

1. In relation to the insertion of party accreditations or other designations, see **clause 11B(1)(d) of Schedule 2**.
2. Where two candidates with the same, or very similar, names are standing, an additional description may be added following the name of the candidate, as provided for by **clause 11B(1)(e) of Schedule 2**.

*Not to be printed as part of the form.

Appendix 2 to Schedule 2 Counting of votes

General

1 Interpretation

In this Appendix, unless the context otherwise requires,—

absolute majority of votes means the number calculated in accordance with **clause 3(10)**

elected means elected for the purpose of the counting of the votes but without prejudice to the declaration of the result of the election

keep value means that fraction of every vote or part of a vote that is retained by the candidate for whom it is given

next preference means a preference that is the second or, as the case may be, subsequent preference recorded in consecutive order for a non-excluded candidate (any candidate who is excluded thereby being ignored)

non-transferable vote means a voting paper on which no next preference for a non-excluded candidate is indicated or can be identified by the Returning Officer

quota means the number calculated in accordance with **clause 3(5)**

remaining value means the value of a voting paper that remains after the necessary fraction of a vote to be retained by each candidate whom, at the current point in the count, it has helped to elect, has been subtracted

surplus means the number of votes by which the total number of votes for any candidate exceeds the quota.

Elections

2 Introduction

- (1) This Appendix sets out the processes, that must necessarily be performed using computer technology, to elect 2 or more candidates together.
- (2) The processes set out in **clauses 3 to 5**, together comprise Algorithm 123 (with minor modifications), as published in The Computer Journal (UK), Vol 30, No 3, 1987, pp 277-281. This algorithm is commonly referred to as “Meek’s method” of counting votes by the single transferable vote system.

- (3) The processes set out in **clauses 3 to 5** also apply, with all necessary modifications, to elections to fill a single vacancy.

3 General instructions

- (1) If any candidate has withdrawn, that candidate's keep value is set to 0.0, and that candidate is excluded from the election. Non-transferable votes are set to 0.0.
- (2) For each candidate who has not withdrawn, that candidate's keep value is set to 1.0.
- (3) If the number of candidates remaining in the election is less than or equal to the number of vacancies, all remaining candidates are elected and the election terminated.
- (4) Where **subclause (3)** does not apply, the votes are counted as specified in **clause 4**.
- (5) Where the election is to fill multiple vacancies, the quota is calculated by dividing the total number of valid votes, less non-transferable votes, by a number that is 1 greater than the number of members to be elected, and the quotient so obtained (which must be calculated to 9 decimal digits after the point) is increased by 0.000000001 (any remainder after the ninth decimal digit being disregarded).
- (6) Each candidate whose votes equal or exceed the quota is elected. That candidate's surplus is calculated as that candidate's current votes less the current quota, and all such surpluses are summed to get the total surplus.
- (7) If there is a non-excluded candidate the sum of whose votes and the total surplus is less than the votes of any other non-excluded candidate, that candidate is excluded from the election and his or her keep value is reset to 0.0. If a candidate has been excluded by the operation of this subclause, the counting process returns to **subclause (3)**.
- (8) If the total surplus is greater than or equal to 0.0001, the counting process proceeds to **subclause (9)**. Otherwise, the lowest candidate, as specified in **clause 5**, is determined and excluded from the election. The excluded candidate's keep value is reset to 0.0 and, if that candidate already has zero votes, and the number of candidates with positive votes is at least enough to fill all vacancies, every other candidate having zero votes is excluded from the election. The counting process then returns to **subclause (3)**.
- (9) If the number of elected candidates is equal to the number of vacancies, the election is terminated. Otherwise, each elected candidate's keep value is recalculated by his or her current keep value being multiplied by the current quota and the result being divided by his or her current votes, both the multiplication and the division being taken to 9 decimal digits after the point and rounded up if not exact. The counting process then returns to **subclause (3)**.

- (10) Where the election is to fill a single vacancy, the absolute majority of votes required for election is calculated by dividing the total number of valid votes, less non-transferable votes, by 2. If the quotient so obtained is not exact, it is increased to the next whole number.
- (11) A candidate who obtains an absolute majority of votes is elected. If there are 2 remaining candidates with an equality of votes, the candidate who had the greater number of votes the first time they were different, is elected. If there remains an equality of votes, a random (or pseudo-random) process is used to choose the elected candidate.

4 Counting of votes

- (1) The votes credited to each candidate are set to 0.0. Non-transferable votes are set to 0.0.
- (2) The information is taken from the first voting paper.
- (3) The voting paper's remaining value is set to 1.0. The current candidate is set to the first preference shown.
- (4) The product of the current candidate's keep value and the voting paper's remaining value is calculated to 9 decimal digits after the point, and rounded up if not exact. The result is added to the votes credited to the current candidate and subtracted from the remaining value.
- (5) If there is a next preference, and the remaining value exceeds 0.0, the current candidate is reset to that preference and the counting process returns to **subclause (4)**.
- (6) The remaining value is added to the total of non-transferable votes.
- (7) If there is a next voting paper, the information is taken from that voting paper and the counting process returns to **subclause (3)**.

5 Lowest candidate

- (1) Considering only those candidates who are neither excluded nor elected, if a candidate currently has fewer votes than any other candidate, then that candidate is the lowest.
- (2) If there is a tie for fewest current votes, the lowest candidate is taken to be that one, among those forming the tie, who had the fewest the first time they were different.
- (3) If, after the processes specified in **subclause (2)** are completed, there remains a tie, a random (or pseudo-random) process is used to choose one of those tying candidates.

Appendix 3 to Schedule 2

Indicative recount

General

1 Interpretation

In this Appendix, 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 **clause 11J(3) of Schedule 2**

consent period means the period within which written consent is required under **clause 11J(3) of Schedule 2**

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

2 One consenting candidate

If there is only 1 consenting candidate, the Returning Officer must notify the local authority that there was only 1 consenting candidate and of the name of that candidate.

3 Void votes

Voting papers to which the provisions of **clause 5(2) or clause 8(2)** apply and on which no next preference has been given, are void.

Original election for a single member

4 More than one consenting candidate

If there are 2 or more consenting candidates, the Returning Officer must, within 7 days after the end of the consent period, ascertain in accordance with this appendix which consenting candidate would otherwise have been elected.

5 Recounting of votes

- (1) The Returning Officer must cause a recount to be made of all the votes counted at the relevant election in accordance with the procedures set out in **Appendix 2**, as if to fill the vacancy originally filled.
- (2) In the recounting, the Returning Officer must cause all first preference votes for the vacating member, and for those candidates who were excluded at the relevant election and who are not consenting candidates in respect of a recount under **clause 4**, to be transferred to and counted as first preference votes for the consenting candidates first or next in the order of the voters' respective preferences.

6 Notification of result

The Returning Officer must prepare and sign a certificate, in respect of the indicative recount, containing the information required by **clause 11G(1) of Schedule 2**, and must forward that certificate to the DHB.

Original election for more than one member

7 More than one consenting candidate

- (1) If there are 2 or more consenting candidates, the Returning Officer must, within 7 days after the end of the consent period, ascertain in accordance with this appendix which consenting candidate would otherwise have been elected.
- (2) Where, either during or subsequent to the consent period, but before an indicative recount is carried out under **clause 8**, the Returning Officer receives notice of a requirement to conduct a further indicative recount in respect of a further extraordinary vacancy, the recount must be conducted to find which 2 consenting candidates would otherwise have been elected.

8 Recounting of votes

- (1) The Returning Officer must cause a recount to be made of all the votes counted at the relevant election in accordance with the procedures set out in **Appendix 2**, as if to fill all vacancies originally filled.
- (2) In the recounting, the Returning Officer must cause all first preference votes 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 under **clause 7**, to be transferred to and counted as first preference votes for the remaining members elected at the relevant election and for the consenting candidates first or next in the order of the voters' respective preferences.
- (3) Subject to the requirement that no remaining member elected at the relevant election is excluded, the Returning Officer must cause the votes to be recounted 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.

9 Notification of result

The Returning Officer must prepare and sign a certificate, in respect of the indicative recount, containing the information required by **clause 11G(1) of Schedule 2**, and must forward that certificate to the DHB.

Schedule 9

To insert, after the item relating to the Land Transport Act 1998 (after line 34 on page 186), the following new item:

Local Elections and Polls Act 1976 (1976 No 144)

Insert, after section 116, the following new section:

“116A Use of computer technology

- “(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.
- “(2) It is 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)** 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,—
- “(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:
 - “(d) the accuracy of the count.
- “(3) An election or poll may 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 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.”

Omit section 123 and substitute:

“123 Regulations

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:
- “(c) making additional provision for the use of computer technology in accordance with **section 116A**:
- “(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.”

Explanatory note

This Supplementary Order Paper amends the New Zealand Public Health and Disability Bill to provide that elections to DHBs are to be by the single transferable vote system. The Bill presently provides, in clause 83(1)(h), for

regulations to specify the methods of conducting elections of members of DHBs and the methods of voting at the elections. It appears to be intended, by this means, to introduce the single transferable vote (STV) system at some future time.

There are two objections to this approach. First, it is constitutionally inappropriate for a matter as significant as a new voting system to be left to subordinate legislation. Matters of policy and principle are to be included in primary legislation, and regulations ought to deal only with subordinate matters of implementation and detail. Provision requires to be made in the Act in this regard.

Second, there is no good reason that the STV system cannot be introduced immediately. Ready provisions are available in the Local Elections (Single Transferable Vote Option) Bill that is presently before select committee, and they ought to be included in this legislation from the outset. The approach taken to election matters in the New Zealand Public Health and Disability Bill as it stands is skeletal at best. It is not good enough to leave such matters to regulations and to such necessary modifications of the Local Elections and Polls Act 1976 as are meant to apply automatically, as proposed in clauses 7 and 11 of the present Schedule 2. More of the necessary details have to be spelled out in this legislation. That is what this Supplementary Order Paper does. It provides the level of detail that would be expected in legislation that introduces a new voting system, especially where a new organisation is being established in which public confidence will be an important element.

The Supplementary Order Paper makes appropriate amendments accordingly to the New Zealand Public Health and Disability Bill.

First, the Supplementary Order Paper omits *clause 83(1)(h)*.

Second, amendments are required to *Schedule 2* of the Bill, which is concerned with the election of members of DHBs. The amendments include the insertion of a number of new clauses in that schedule and the addition of 3 appendices to it to set out the STV voting system and requirements. The STV system will operate on the basis of an at-large election across the whole DHB area, rather than on the basis of a ward system. This will achieve the best outcome in terms of local, gender and ethnic representation.

Third, an addition is also made to *Schedule 9* to include limited consequential amendments that are required to the Local Elections and Polls Act 1976.