

House of Representatives

Supplementary Order Paper

Tuesday, 15 November 2022

Electoral (Māori Electoral Option) Legislation Bill

Proposed amendments

Hon Kiritapu Allan, in Committee, to move the following amendments:

Clause 6

In *clause 6*, after *new section 78(1)* (page 4, after line 17), insert:

Receipt of late or non-compliant form or application

- (1A) If a form or an application described in **subsection (1)(a) or (c)** is received by the Electoral Commission by post after the start of any election period and it complies with the requirements in **subsection (1B)**, that form or application is to be treated as having been received before the start of the election period and the elector must, if the form or application is otherwise in order, be treated as having exercised the Māori option.
- (1B) The requirements for a form or an application are the following:
- (a) it must be received no later than noon on the fourth day after the start of an election period; and
 - (b) it must be postmarked or date-stamped before the start of an election period.
- (1C) If a form or an application described in **subsection (1)(a) or (c)** is received by the Electoral Commission by post before the start of any election period but that form or application does not comply with the requirements for signing and dating, the Electoral Commission may treat the notice as being in accordance with those requirements if the non-compliance is remedied not later than 6 days after the start of the election period.

In *clause 6*, after *new section 78(3)* (page 4, after line 27), insert:

- (4) In this section, **election period** means—
- (a) a general election period (*see* **section 78AA(4)**); or
 - (b) a local government election period (*see* **section 78AB(4)**);
or
 - (c) a by-election period (*see* **section 78A(6)**).

78AA Māori option may not be exercised in general election period

- (1) The following persons may not exercise the Māori option during a general election period:
- (a) a Māori who is registered as an elector of an electoral district;
 - (b) a Māori who is named on a dormant roll and applies for registration as an elector of an electoral district.
- (2) To avoid doubt, **subsection (1)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors.
- (3) The Electoral Commission must not give effect to either of the following during a general election period:
- (a) any advice received under **section 77(3)** by a registered elector; or
 - (b) if processing an application under section 83 by a Māori person named on a dormant roll, the choice made by the person when exercising the Māori option in that application if it would register them as an elector for a different type of district from that for which they were previously registered.
- (4) In this section, **general election period** means any of the following periods:
- (a) the period that is 3 months before polling day for a general election, if at least 3 months' public notice is given of polling day (**polling day A**):
 - (b) the period commencing on the day after the day on which public notice of polling day is given and ending on polling day, if less than 3 months' public notice is given of polling day (**polling day B**):
 - (c) if during a period specified in **paragraph (a) or (b)** public notice is given that polling day A or polling day B is changed to a later date (**polling day C**), such part of the period specified in **paragraph (a) or (b)** (as relevant) that has elapsed up until the end of the day on which the public notice is given, and a further period specified in **paragraph (a) or (b)** (as relevant) in relation to polling day C.

78AB Māori option may not be exercised in local government election period

- (1) The following persons may not exercise the Māori option during a local government election period:
 - (a) a Māori who is registered as an elector of an electoral district;
 - (b) a Māori who is named on a dormant roll and applies for registration as an elector of an electoral district.
- (2) To avoid doubt, **subsection (1)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors.
- (3) The Electoral Commission must not give effect to either of the following during a local government election period:
 - (a) any advice received under **section 77(3)** by a registered elector; or
 - (b) if processing an application under section 83 by a Māori person named on a dormant roll, the choice made by the person when exercising the Māori option in that application if it would register them as an elector for a different type of district from that for which they were previously registered.
- (4) In this section, **local government election period** means a period that is 3 months before polling day for an election held under section 10(2) of the Local Electoral Act 2001.

In *clause 6*, replace *new section 78A* (page 4, line 28 to page 5, line 32) with:

78A Māori option may not be exercised in by-election period

- (1) This section applies if the Speaker has published a notice of vacancy for an electoral district.
- (2) The following persons may not exercise the Māori option during a by-election period if doing so would result in the person being eligible to vote in the by-election:
 - (a) a Māori who is registered as an elector of an electoral district;
 - (b) a Māori who is named on a dormant roll and applies for registration as an elector of an electoral district.
- (3) To avoid doubt, **subsection (2)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors.
- (4) The Electoral Commission must not give effect to either of the following during a by-election period:

- (a) any advice received under **section 77(3)** by a registered elector; or
 - (b) if processing an application under section 83 by a Māori person named on a dormant roll, the choice made by the person when exercising the Māori option in that application if it would register them as an elector for a different type of district from that for which they were previously registered.
- (5) However, **subsections (2) and (4)** do not apply if under section 131 no writ is issued.
- (6) In this section, **by-election period** means the period beginning on the date on which the notice of vacancy is published and ending on polling day for the by-election.

Clause 8

Replace *clause 8* (page 6, lines 19 and 20) with:

8 Section 89 amended (Procedure following application for registration)

Replace section 89(2) with:

- (2) If on receiving any application that includes the exercise of the Māori option the Electoral Commission believes that it is prevented, by any of **sections 78AA to 78A**, from giving effect to the option, the Electoral Commission must—
- (a) notify the applicant of the reason why the exercise of the Māori option cannot be given effect to until a later date and advise what that date is; and
 - (b) advise the applicant whether they are entitled to be registered as an elector in another type of district.

Clause 9

Replace *clause 9* (page 6, lines 21 to 34) with:

9 New section 89DA inserted (Updating Māori option details)

After section 89D, insert:

89DA Updating Māori option details

- (1) The Electoral Commission must send to Māori electors information about the exercise of the Māori option, if practicable, not later than—
- (a) 30 April 2023; and
 - (b) 31 March in any other year in which Parliament is due to expire.

- (2) The Electoral Commission must send to Māori electors information about the exercise of the Māori option not less than 3 months before the commencement of a local government election period under **section 78AB**.
- (3) The information required to be sent to Māori electors under **sub-sections (1) and (2)** may be sent by any means that the Electoral Commission considers appropriate and—
 - (a) must inform the elector that they are currently registered in a Māori electoral district or a General electoral district (whichever applies); and
 - (b) must inform the elector that they are entitled to—
 - (i) exercise the Māori option under **section 76** at any time other than as provided in **sections 78AA to 78A**; and
 - (ii) change the type of district in which they are registered; and
 - (c) must include a form or information about an approved electronic medium to use to exercise the Māori option; and
 - (d) may give information about the differences between the 2 types of electoral districts that the Electoral Commission considers would be useful.

Clause 14

In *clause 14(1)*, delete the definition of **Māori electoral district** (page 7, lines 23 and 24).

Explanatory note

This Supplementary Order Paper amends the Electoral (Māori Electoral Option) Legislation Bill (the **Bill**) to provide that the Māori option under *new section 76* cannot be exercised in a specified period before a parliamentary general election or a local government general election. This change is made in *new sections 78AA and 78AB* respectively. This Supplementary Order Paper also replaces *new section 78A* in the Bill, which provides that the Māori option cannot be exercised during the election period of a by-election for a parliamentary electoral district. Reference to an overlap between a by-election and a triennial general election under the Local Electoral Act 2001 is removed because the exercise of the Māori option during a local government general election period is now dealt with in *new section 78AB*.

Other amendments in this Supplementary Order Paper make changes to processes that the Electoral Commission will use to provide Māori electors with information about the exercise of the Māori option before an election period under *new sections 78AA and 78AB*. The Electoral Commission will be required to advise those electors that

they are not entitled to exercise the Māori option during the election period for a general election, a parliamentary by-election, or a local government election.

This Supplementary Order Paper also makes a technical change to *clause 14* that inserts definitions in section 5(1) in the Local Electoral Act 2001. The definition of Māori electoral district is deleted as it is redundant.

Departmental disclosure statement

The Ministry of Justice prepared a supplementary disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2022&no=280&>

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 4 November 2022 to help inform the new policy decisions taken by the Government relating to the contents of this Supplementary Order Paper.

A copy of this regulatory impact statement can be found at—

- <https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>