



# Electoral Amendment Act 2004

Public Act 2004 No 99  
Date of assent 6 December 2004  
Commencement see section 2

## Contents

1	Title	9	New sections 267A and 267B inserted
2	Commencement		267A Regulations relating to advertisement of a specified kind
3	Purpose		267B Requirements before Minister can recommend that regulations be made
4	Membership		
5	How vacancies created		
6	New section 55AA inserted		
	55AA Dual or multiple citizenship permissible in certain circumstances	10	Schedule 1 amended
7	Definitions		
8	New section 221B inserted		
	221B Display of advertisement of a specified kind		

## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the Electoral Amendment Act 2004.
- (2) In this Act, the Electoral Act 1993 is called “the principal Act”.

### 2 Commencement

- (1) Sections 5 and 6 come into force on the day after polling day for the next general election.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Purpose

The purpose of this Act is to—

- (a) amend section 55 of the principal Act, which sets out the circumstances in which the seat of a member of Parliament becomes vacant; and
- (b) make other amendments to the principal Act.

### 4 Membership

- (1) Section 8(4) of the principal Act is amended by omitting the expression “Part 6”, and substituting the words “sections 69 to 80”.
- (2) Section 8 of the principal Act is amended by adding the following subsection:  
“(5) For the purposes of its jurisdiction under section 80A of the Broadcasting Act 1989, the Electoral Commission consists only of the members who hold office under subsection (1).”

### 5 How vacancies created

- (1) Section 55(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:  
“(b) if he or she takes an oath or makes a declaration or acknowledgement of allegiance, obedience, or adherence to a foreign State, foreign Head of State, or foreign Power, whether required on appointment to an office or otherwise; or”.
- (2) Section 55(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraphs:  
“(ca) if he or she ceases to be a New Zealand citizen; or  
“(cb) if he or she accepts nomination as, or otherwise agrees to be, a candidate for election, or agrees to appointment as—
  - “(i) a member of Parliament (or other governing body) of a country, State, territory, or municipality, in any country other than New Zealand; or
  - “(ii) a member of any governing body of any association of countries, States, territories, or municipalities exercising governing powers, of which New Zealand is not a member (for example, the European Union); or”.

**6 New section 55AA inserted**

The principal Act is amended by inserting, after section 55, the following section:

**“55AA Dual or multiple citizenship permissible in certain circumstances**

Despite section 55(1)(b) and (c), the seat of a member of Parliament does not become vacant by reason only of the member—

- “(a) becoming a subject or citizen of any foreign State or Power, or entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power, by reason only of the member’s—
  - “(i) country or place of birth; or
  - “(ii) descent; or
- “(b) renewing a passport or travel document that was issued to him or her by a foreign State or Power before the member took office.”

**7 Definitions**

Section 55E of the principal Act is amended by repealing the definition of the term **appropriate person**, and substituting the following definition:

“**appropriate person** means the Speaker”.

**8 New section 221B inserted**

The principal Act is amended by inserting, after section 221A, the following section:

**“221B Display of advertisement of a specified kind**

- “(1) During the period beginning 2 months before polling day and ending with the close of the day before polling day, the display of an advertisement of a specified kind is not subject to—
  - “(a) any prohibition or restriction imposed in any other enactment or bylaw, or imposed by any local authority, that applies in relation to the period when an advertisement of a specified kind may be displayed; or
  - “(b) any prohibition or restriction imposed in any bylaw, or imposed by any local authority, that applies in relation to the content or language used in an advertisement of a specified kind.

- “(2) In this section **advertisement of a specified kind** means an advertisement displayed in a public place or on private property that does not exceed 3 square metres in size and that—
- “(a) encourages or persuades or appears to encourage or persuade voters to vote for a party registered under Part 4; or
  - “(b) is used or appears to be used to promote or procure the election of a constituency candidate; but
  - “(c) does not include—
    - “(i) an advertisement published in any newspaper, periodical, or handbill, or in any poster less than 150 square centimetres in size; or
    - “(ii) an advertisement broadcast over any television station or by any electronic means of communication.
- “(3) Nothing in this section limits or prevents the display before polling day of any advertisement relating to an election that complies with any prohibition or restriction imposed in any enactment or bylaw, or imposed by any local authority.”

## 9 New sections 267A and 267B inserted

The principal Act is amended by inserting, after section 267, the following sections:

### “267A Regulations relating to advertisement of a specified kind

- “(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations regulating—
- “(a) all or any of the following matters in relation to an advertisement of a specified kind:
    - “(i) design:
    - “(ii) layout:
    - “(iii) shape:
    - “(iv) colour:
  - “(b) the procedures to be followed by any person before displaying an advertisement of a specified kind.
- “(2) Regulations made under subsection (1)(a)—
- “(a) may be made only for the purpose of ensuring that an advertisement of a specified kind does not endanger the safety of road users; and

- “(b) apply only during the period beginning 2 months before polling day and ending with the close of the day before polling day.
- “(3) Regulations made under subsection (1) may—
  - “(a) impose different requirements for an advertisement of a specified kind depending on how it is published:
  - “(b) override or modify any other enactment and any bylaw or other instrument.
- “(4) In this section, **advertisement of a specified kind** has the same meaning as in section 221B(2).
- “(5) This section is subject to section 267B.

**“267B Requirements before Minister can recommend that regulations be made**

- “(1) The Minister may not recommend the making of any regulations under section 267A(1)(a) unless—
  - “(a) the Minister has consulted with the Minister who is for the time being responsible for the administration of the Land Transport Act 1998; and
  - “(b) the Minister is satisfied that the regulations do not restrict the rights of candidates and political parties any more than is reasonably necessary to ensure that an advertisement of a specified kind does not endanger the safety of road users; and
  - “(c) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and
  - “(d) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister’s recommendation comprise at least 75% of all members of Parliament.
- “(2) The Minister may not recommend the making of any regulations under section 267A(1)(b) unless—
  - “(a) the Minister has consulted with the Minister of Local Government; and
  - “(b) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and
  - “(c) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister’s

recommendation comprise at least 75% of all members of Parliament.”

## **10 Schedule 1 amended**

Clause 2A of Schedule 1 of the principal Act is amended by repealing subclause (4), and substituting the following subclause:

“(4) At any meeting of the Commission—

“(a) the quorum necessary for the transaction of business under Part VI of the Broadcasting Act 1989 is 3 members:

“(b) for the purpose of transacting business under sections 69 to 80 of the Broadcasting Act 1989, the quorum may consist of no more than 1 member appointed under section 8(4)(b).”

---

### **Legislative history**

30 November 2004	Divided from Electoral Matters Bill (Bill 157–2) as Bill 157–3A
1 December 2004	Third reading
6 December 2004	Royal assent

---

This Act is administered in the Ministry of Justice.

---