

REPEALED: See Act, 1962 No. 2



ANALYSIS

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1958, No. 48

An Act to amend the Local Elections and Polls Act 1953

[26 September 1958]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Local Elections and Polls Amendment Act 1958, and shall be read together with and deemed part of the Local Elections and Polls Act 1953 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-nine.

2. Duration of office of members—(1) Section seven of the principal Act is hereby amended as follows:

(a) By inserting in paragraph (a) of subsection one, after the words “section seventeen”, the words “or section nineteen”:

(b) By inserting in paragraph (b) of the same subsection, after the words “section seventeen”, the words “or the said section nineteen”.

(2) Section seven of the principal Act is hereby further amended by omitting from subsection three the words “continue in office until the member or members elected at that election come into office”, and substituting the words “vacate his office when the member or members elected at that election come into office, notwithstanding that all the vacancies to be filled at that election are not then filled”.

3. Nomination of candidates—Section thirteen of the principal Act is hereby amended by inserting, after the words “electors of the district”, the words “or, in the case of an election in any subdivision of a district for electoral purposes, by two electors of that subdivision”.

4. Deposit by candidates—Section fifteen of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) The deposit shall be paid in the form of money, a money order, a money order telegram, or a bank draft.”

5. Death of candidate before close of nominations—The principal Act is hereby amended by inserting, after section fifteen, the following section:

“15A. (1) Where a candidate who has been nominated and has not withdrawn his nomination dies before the close of nominations, his nomination shall be treated in all respects as if it had not been made, and his deposit shall be returned to his personal representatives or, as the case may be, to the person who paid it.

“(2) Where in any such case the candidate dies on nomination day or on the day before nomination day, the time for the close of nominations in the district or, as the case may be, in the subdivision for electoral purposes, shall be deemed to be postponed by two days.”

6. Form of public declaration—(1) Section seventeen of the principal Act is hereby amended by omitting the words “at the place and on the day so appointed, publicly declare”, and substituting the words “by public notice given before the day appointed for the election, declare”.

(2) Section nineteen of the principal Act is hereby amended by omitting from subsection one the words “publicly declare”, and substituting the words “by public notice given before the day appointed for the election, declare”.

7. Death of candidate for Mayor after close of nominations—The principal Act is hereby further amended by inserting, after section nineteen, the following section:

“19A. (1) If any candidate for the office of Mayor of a borough dies after the close of nominations and before the close of the poll, or if the successful candidate dies after the close of the poll and before the declaration of the result of the poll, the provisions of this section shall apply.

“(2) The election shall be deemed to have failed.

“(3) Where the candidate dies before polling day, the Returning Officer shall, upon being satisfied of the fact of the death, countermand the notice of the poll.

“(4) Where the candidate dies on polling day before the close of the poll the Returning Officer shall, upon being satisfied of the fact of the death, immediately close the poll and by public notice declare it to be null and of no effect.

“(5) Where the candidate dies after the close of the poll and before the declaration of the result of the poll, and it is found on the completion of the count of votes or on a recount that the candidate, if still living, would have been elected, the Returning Officer shall, upon being satisfied of the fact of the death, by public notice declare the election to be void.

“(6) The provisions of this Act as to an equality of votes between candidates shall apply, notwithstanding the death of one of those candidates after the close of the poll.

“(7) Where the poll is interrupted in consequence of the death of a candidate, all voting papers placed in the several ballot boxes shall be taken out by the several Deputy Returning Officers and, being made up into secured packages, shall be sent unopened to the Returning Officer, who shall forthwith destroy them in the presence of a Magistrate or a Justice of the Peace.

“(8) Where under the provisions of this section any election is deemed to have failed, a new election shall be held as if an extraordinary vacancy had occurred on the date on which the notice of the poll was countermanded or, as the case may be, on the date of the publication of the public notice declaring the poll to be null or the election to be void, and, except as otherwise provided, all proceedings in connection with the new election shall be had and taken anew.

“(9) The roll which was to be used at the election which has failed shall be used at the new election without any amendment or addition.

“(10) It shall not be necessary to nominate afresh any candidate who at the time of the countermand or close of the poll was a duly nominated candidate:

“Provided that any such candidate may withdraw his nomination before the time appointed for the close of nominations for the new election.”

8. Communication of names of persons who have voted—Section twenty-two of the principal Act is hereby amended by adding the following subsection:

“(4) Nothing in this Act shall render it unlawful for a scrutineer to communicate to any person information as to the names of persons who have voted.”

9. Blind, disabled, or illiterate voters—The principal Act is hereby amended by repealing sections thirty-two and thirty-three, and substituting the following section:

“32. (1) Any elector who is wholly or partially blind, or is unable to read or write (whether because of physical handicap or otherwise), or is not sufficiently familiar with the English language to vote without assistance, may vote in accordance with the provisions of this section.

“(2) At the request of any such voter who has received a voting paper, the Deputy Returning Officer shall accompany him into one of the inner compartments provided for the marking of voting papers, and the voting paper may there be marked by the voter with the assistance of the Deputy Returning Officer or may be marked by the Deputy Returning Officer in accordance with the instructions of the voter.

“(3) The person assisting the voter shall sign his name on the back of the voting paper and shall add the words ‘Witness for blind or partially blind person’ or ‘Witness for person unable to read or write’ or ‘Witness for person not familiar

with the English language', as the case may be, and shall fold the voting paper so that its face cannot be seen before depositing it in the ballot box.

"(4) A poll clerk or some other person nominated by the voter shall also accompany him into the inner compartment and may, if so desired by the voter, inspect the voting paper before it is deposited in the ballot box.

"(5) Any elector voting as a special voter may vote in the manner prescribed by this section, with any necessary modifications, or in any manner prescribed by regulations made under this Act.

"(6) Every person who is present in accordance with this section or with any regulations when an elector votes and who communicates at any time to any person any information obtained as to the candidate for whom the voter is about to vote or has voted, or as to the number on the voting paper given to the voter, commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding three months."

10. Special voters—The principal Act is hereby further amended by repealing sections thirty-four and thirty-five, and substituting the following section:

"34. Any elector may vote at any election as a special voter, if—

"(a) His name does not appear on the copy of the roll used for that election or has been deleted from that copy, and he has reasonable cause to believe that his name was entered on the roll or, as the case may be, should not have been deleted from that copy:

"(b) He will on polling day be outside New Zealand:

"(c) He is or will be absent from the district on polling day:

"(d) He will not throughout the hours of polling on polling day be within two miles by the nearest practicable route of any polling place in the district:

"(e) He will throughout the hours of polling on polling day be travelling under conditions which will preclude him from attending to vote at any polling place in the district:

"(f) He is ill or infirm, and by reason of that illness or infirmity will be precluded from attending to vote at any polling place in the district:

"(g) In the case of a woman, she will by reason of approaching or recent maternity be precluded from attending to vote at any polling place in the district:

- “(h) He is a lighthouse keeper or member of a lighthouse keeper’s staff, or is the wife of a lighthouse keeper or the wife of a member of a lighthouse keeper’s staff, and will be precluded from attending to vote at any polling place in the district:
- “(i) He has a religious objection to voting at a polling place on the day of the week on which polling day falls:
- “(j) He satisfies the Returning Officer or Deputy Returning Officer that on any other ground it will not be possible for him to vote at a polling place in the district without incurring hardship or undue inconvenience.”

11. Voting by special voters—(1) The principal Act is hereby further amended by inserting, after section thirty-four (as substituted by section ten of this Act), the following section:

“35. (1) Notwithstanding anything to the contrary in this Act, a special voter may vote at such place (whether at a polling place or not), at such time, in such manner, and upon or subject to such conditions as may be prescribed in that behalf by regulations made under this Act.

“(2) The voting papers for use by special voters may be in such form as is prescribed by regulations, and the consecutive numbers of the special voting papers may be in a different series from that used for the ordinary voting papers.

“(3) Subject to the provisions of this section and of section thirty-four of this Act, and to the provisions of any regulations made for the purposes of this section, all the provisions of this Act shall, as far as applicable and with the necessary modifications, apply with respect to voting by special voters and to their votes.”

(2) Section thirty-seven of the principal Act is hereby amended by repealing paragraph (c) of subsection two.

(3) The First Schedule to the principal Act is hereby amended by repealing forms numbered (8) and (9).

12. Amending provisions as to comparing marked copies of roll—(1) Section thirty-nine of the principal Act is hereby amended as follows:

- (a) By inserting in subsection one, after the words “has been noted”, the words “and all records of special votes exercised in respect of the district”:

- (b) By inserting in subsection one, after the words "any of the certified copies of the roll", the words "or in any record of special voting papers issued in respect of the district":
- (c) By inserting in subsection two, after the words "on that comparison", the words "or from the checking of declarations in respect of special votes":
- (d) By omitting from subsection three the words "postal voting paper issued pursuant to section thirty-five of this Act", and substituting the words "voting paper issued to a special voter".

(2) Section thirty-nine of the principal Act is hereby further amended by adding to subsection two the following proviso:

"Provided that, if the Returning Officer is satisfied that the voter lawfully received a voting paper or voting papers at only one polling booth and that he was not in any way concerned in the issue of the voting paper or voting papers at any other polling booth, the Returning Officer shall allow the valid vote or votes given by means of the voting paper or voting papers received at the first-mentioned polling booth and shall disallow the other vote or votes."

13. Amending provisions as to official count and declaration of poll—(1) Section forty-one of the principal Act is hereby amended by inserting in subsection one, after the words "such scrutineers as are present", the words "and of any Justice whom he requests to attend".

(2) Section forty-one of the principal Act is hereby further amended by repealing subparagraph (ii) of paragraph (a) of subsection two.

(3) Section forty-one of the principal Act is hereby further amended by adding to paragraph (a) of subsection two the following additional proviso:

"Provided also that no voting paper shall be rejected as informal by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election:"

(4) Section forty-one of the principal Act is hereby further amended by repealing subsections four and five, and substituting the following subsection:

"(4) The voting papers of special voters shall be dealt with in like manner, after which they shall be made up together into a parcel which shall be properly secured and shall be endorsed in the manner hereinbefore described."

(5) Section forty-one of the principal Act is hereby further amended by repealing subsection six, and substituting the following subsection:

“(6) When all the voting papers have been dealt with in the manner prescribed in the foregoing provisions of this section, the Returning Officer shall—

“(a) Prepare and sign a certificate stating the total number of voting papers (other than spoilt voting papers) used at the election, the number of votes received by each candidate, and the number of voting papers rejected as informal, and shall retain that certificate for production when required; and

“(b) Declare the result of the poll by giving public notice thereof in the form numbered (7A) in the First Schedule hereto.”

(6) The First Schedule to the principal Act is hereby amended by inserting, after form numbered (7), the form specified in the Schedule to this Act.

14. Amending provisions as to recount—(1) Section forty-two of the principal Act is hereby amended by omitting from subsection three the words “and shall give at least two days’ public notice”, and substituting the words “and shall give notice in writing to the Returning Officer and to each of the candidates or their scrutineers”.

(2) Section forty-two of the principal Act is hereby further amended by repealing subsection six, and substituting the following subsection:

“(6) If on the recount the Magistrate finds that the public declaration was incorrect, he shall order the Returning Officer to give an amended declaration of the result of the poll.”

15. Amending provisions as to election to extraordinary vacancy—(1) Section forty-eight of the principal Act is hereby amended by omitting from subsection one the words “from the occurrence of the vacancy”, and substituting the words “after the receipt by him of notice of the vacancy”.

(2) Section forty-eight of the principal Act is hereby further amended by adding to subsection one the following additional proviso:

“Provided also that where, before the day appointed under this subsection for an election to fill an extraordinary vacancy, the Returning Officer receives notice of a further extraordinary vacancy in an elective office, he may countermand the notice previously given in respect of the first vacancy

and give a fresh public notice under this subsection appointing a day for holding an election to fill both vacancies, and the provisions of this subsection shall thereupon apply as if notice of the first vacancy had been received by the Returning Officer on the date on which he received notice of the further vacancy.”

16. Conduct of elections in combined districts—The principal Act is hereby amended by inserting, after section forty-eight, the following section:

“48A. Notwithstanding anything in this Act or in any other Act, where an election is required to be held in a combined district which comprises the whole or parts of several constituent districts, the Returning Officer for the combined district may, at any time after the close of nominations, appoint the Returning Officer for any constituent district to conduct the election in that constituent district, and thereupon the provisions of this Act shall apply as if the election was to be held in the constituent district only:

“Provided that the Returning Officer for the constituent district shall not provisionally announce under the provisions of section thirty-six of this Act the total number of votes received by each candidate at the election or declare under section forty-one of this Act the result of the poll, but shall, after ascertaining the number of votes recorded in the constituent district for each candidate on the preliminary count and on the official count respectively, forthwith send a certificate signed by him giving particulars of the numbers to the Returning Officer for the combined district, who shall make up the total number of votes received for each candidate and provisionally announce under section thirty-six of this Act the total number of votes received by each candidate at the election or, as the case may be, declare under section forty-one of this Act the result of the poll.”

17. Interfering with or influencing voters—The principal Act is hereby amended by repealing section fifty, and substituting the following section:

“50. (1) Every person is liable to a fine not exceeding fifty pounds who at an election—

“(a) In any way interferes with any elector, either in the polling booth or while on his way thereto, with the intention of influencing him or advising him as to his vote:

- “(b) At any time on polling day before the close of the poll, in or in view or hearing of any public place holds or takes part in any demonstration or procession having direct or indirect reference to the poll by any means whatsoever:
- “(c) At any time on polling day before the close of the poll, makes any statement having direct or indirect reference to the poll by means of any loudspeaker or public-address apparatus or cinematograph or television apparatus:
- “(d) At any time on polling day before the close of the poll, or at any time on any of the three days immediately preceding polling day, prints or distributes or delivers to any person anything being or purporting to be in imitation of any voting paper to be used at the poll and having thereon the names of the candidates or any of them, together with any direction or indication as to the candidate for whom any person should vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote:
- “(e) At any time on polling day before the close of the poll, exhibits in or in view of any public place, or publishes or distributes or broadcasts, any statement advising or intended or likely to influence any elector as to the candidate or party for whom he should vote:
- “Provided that this paragraph shall not apply to any statement in a newspaper published before six o'clock in the afternoon of the day before polling day:
- “Provided also that where any statement is so exhibited before polling day in a fixed position not in view of a polling place it shall not be an offence to leave it so exhibited on polling day:
- “Provided further that the Returning Officer may at any time on polling day cause to be removed or obliterated any statement to which this paragraph applies which is exhibited within half a mile of a polling place, and may recover all expenses incurred in so doing from the persons by whom or by whose direction the statement was exhibited, as a debt due by them jointly and severally to the local authority:

“(f) Exhibits or leaves in any polling booth any card or paper having thereon any direction or indication as to how any person should vote or as to the method of voting:

“(g) At any time on polling day before the close of the poll, within, or at the entrance to, or in the vicinity of, any polling place,—

“(i) Gives or offers to give to any person any written or oral information as to any name or number on the roll being used at the election:

“(ii) Permits or offers to permit any person to examine any copy of the roll being used at the election.

“(2) It shall not be an offence against this section for any person—

“(a) To wear or display (whether on his person or not) any party emblem:

“(b) To print or distribute or deliver to any person any card or ticket (not being an imitation voting paper) having thereon the names of the candidates or any of them, with or without the name of the party to which each candidate belongs or a statement that he is an independent.

“(3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Act.”

18. Treating—The principal Act is hereby further amended by repealing section fifty-five, and substituting the following section:

“55. (1) Every person commits the offence of treating who corruptly, by himself or by any other person on his behalf, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment, or provision to or for any person—

“(a) For the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or

“(b) For the purpose of procuring himself to be elected; or

“(c) On account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

“(2) Every person commits the offence of treating who, being the holder of a licence for the sale by retail of intoxicating liquor, knowingly supplies any food, drink, entertainment, or provision—

“(a) To any person where the supply thereof is demanded for the purpose of treating, or for any corrupt or illegal practice; or

“(b) To any person, whether an elector or not, for the purpose of procuring the return of a candidate at an election, and without receiving payment for it at the time when it is supplied.

“(3) Every elector who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating.”

19. Amending provisions as to infringement of secrecy—Section fifty-nine of the principal Act is hereby amended by omitting from subsection one the words “before the poll is closed”.

20. Amending provisions as to disclosing voting—Section sixty of the principal Act is hereby amended as follows:

(a) By omitting from paragraph (b) the word “or” where it last appears:

(b) By repealing paragraph (c).

21. Appointment of scrutineers—Section sixty-four of the principal Act is hereby amended by inserting in paragraph (a), after the words “resolution of the local authority”, the words “or to a recommendation or requirement of the Local Government Commission or the Local Authorities Loans Board or any other statutory body”.

22. Petition for inquiry—Section sixty-six of the principal Act is hereby amended by omitting from subsection one the words “the declaration of”, and substituting the words “the giving of the public notice under section forty-one or section forty-two of this Act, as the case may be, declaring”.

23. Fresh election or poll when election or poll declared void—(1) The principal Act is hereby amended by repealing section seventy-four, and substituting the following section:

“74. Where an election or poll is declared void, a fresh election or poll shall, on a day to be fixed by the Returning Officer, being not later than thirty-five days after the date

of that declaration, be held or taken under the same provisions, as far as practicable, as those applicable to the void election or poll:

“Provided that only persons who were eligible to vote at the void election or poll shall be eligible to vote at the fresh election or poll, and the roll which was to be used at the void election or poll shall be used at the fresh election or poll without any amendment or addition.”

(2) Section eighty-nine of the principal Act is hereby amended by inserting in subsection one, before the words “Every roll”, the words “Subject to the provisions of sections nineteen A and seventy-four of this Act”.

24. Penalty for failure to enrol—Section eighty-eight of the principal Act is hereby amended as follows:

- (a) By omitting from subsection four the words “five shillings”, and substituting the words “two pounds”:
- (b) By omitting from subsection four the words “twenty shillings”, and substituting the words “five pounds”.

SCHEDULE

Section 13 (6)

“Form (7A)

DECLARATION OF RESULT OF POLL

[Name of District]

I HEREBY declare the result of the poll taken on the _____ day of 19____ for the election of [State number] member(s) [or as the case may require] of the [Name of District] to be as follows:

Candidates	Votes Received
C. D.
E. F.
G. H.
I. J.
K. L.

I therefore declare the said _____ to be elected.

Dated at _____ this _____ day of _____ 19____ .

A. B.,
Returning Officer.”
