



## ANALYSIS

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 1992, No. 43

**An Act to amend the Local Elections and Polls Act 1976**

[20 May 1992]

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 Elections and Polls Amendment Act 1992, and shall be read together with and deemed part of the Local Elections and Polls Act 1976 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the day on which it receives the Royal assent.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “Chairman”, and substituting the following definition:

“‘Chairperson’ includes the Mayor of a territorial authority, the Chairperson of a regional council, and the President of a licensing trust; and, where there is no Chairperson for the time being in office, means the Deputy Chairperson.”

(2) The said section 2 is hereby further amended by repealing the definition of the term “local authority” (as amended by section 22 (1) of the Area Health Boards Amendment Act (No. 2) 1991), and substituting the following definition:

“‘Local authority’ means a territorial authority or regional council, and also includes any other elected or partly elected body to which this Act or any former Local Elections and Polls Act is or has been made to apply by any other enactment.”

(3) The said section 2 is hereby further amended by inserting, after the definition of the term “public notice”, the following definition:

“‘Regional council’ has the same meaning as in section 2 (1) of the Local Government Act 1974.”

(4) The said section 2 is hereby further amended by repealing the definition of the term “subdivision”, and substituting the following definitions:

“‘Subdivision’ means a ward of a territorial authority, a constituency of a region, or any other subdivision of a local government area for electoral purposes or for the purposes of any poll:

“‘Territorial authority’ has the same meaning as in section 2 (1) of the Local Government Act 1974; but does not include the Minister of Local Government.”

(5) Section 22 of the Area Health Boards Amendment Act (No. 2) 1991 is hereby consequentially repealed.

**3. Method of conducting election or poll in certain cases—**(1) The principal Act is hereby amended by repealing section 3A (as inserted by section 2 (1) of the Local Elections and Polls Amendment Act 1977), and substituting the following section:

“3A. (1) Where the Returning Officer for any local government area that is within the jurisdiction of a territorial authority is required to conduct, at the same time as any election or poll conducted by the Returning Officer for that territorial authority, any other election or poll to be held within that local government area for which the Returning Officer for that territorial authority is also the Returning Officer (including an election of members of a community board), then, notwithstanding anything in section 66 (1) or section 80 (1) or section 88 (1) of this Act, the Returning Officer shall conduct that other election or poll by the method by which the election or poll is conducted by the Returning Officer for the territorial authority.

“(2) Where—

“(a) The Returning Officer for any local government area that is within the jurisdiction of a territorial authority is required to conduct within that local government area 2 or more elections or polls (not being elections or polls to be conducted at the same time as an election or a poll conducted for the territorial authority); and

“(b) Pursuant to a resolution under section 66 (1) or section 80 (1) or section 88 (1) of this Act, any such election or poll is required to be conducted by a method that differs from that by which any other such election or poll is to be conducted,—

then, notwithstanding anything in any such resolution or in any of those sections, the Returning Officer shall request the local authorities concerned to determine among themselves and notify the Returning Officer in writing, before a date fixed by the Returning Officer, the method by which all those elections and polls shall be conducted, and, if they fail to do so, the Returning Officer shall conduct the elections or polls by the method by which the immediately preceding general election of members of the Council was conducted.”

(2) Section 2 (1) of the Local Elections and Polls Amendment Act 1977 is hereby consequentially repealed.

**4. Conduct of elections**—The principal Act is hereby amended by repealing section 5B (as inserted by section 3 (1) of the Local Elections and Polls Amendment Act 1989), and substituting the following section:

“5B. (1) Every election of members of a territorial authority shall be conducted by a Returning Officer as provided in section 8 of this Act.

“(2) Every election of members of a regional council by the electors of a constituency shall be conducted by the Returning Officers of those territorial authorities whose districts are wholly or partly within that constituency.

“(3) The election of members of a regional council by the electors of any area of a constituency that is not within the district of a territorial authority shall be conducted by one of the Returning Officers specified in subsection (2) of this section in respect of that constituency, who shall be appointed for that purpose by the Regional Council not later than the 10th day of May in the year in which a triennial general election is to be held.

“(4) Where all the boundaries of a local authority are the same as the boundaries of a territorial authority or are wholly within the boundaries of a territorial authority, every election of members of that local authority shall be conducted by the Returning Officer of that territorial authority.

“(5) Every election of members of a local authority that is neither a territorial authority nor a regional council and is a local authority to which subsection (4) of this section does not apply shall be conducted by the Returning Officers of the territorial authorities whose districts are wholly or partly within the area of that local authority.”

**5. Appointment of supervising Returning Officer**—The principal Act is hereby amended by repealing section 5c (as inserted by section 3 (1) of the Local Elections and Polls Amendment Act 1989), and substituting the following section:

“5c. (1) Where, by virtue of section 5B of this Act, the Returning Officers of more than one territorial authority are required to conduct the election of members of a local authority, the Returning Officer appointed by the local authority under section 8 of this Act shall be a supervising Returning Officer under this section.

“(2) The person appointed as supervising Returning Officer shall be—

“(a) The principal administrative officer of the local authority; or

“(b) One of the territorial authority Returning Officers required to conduct the election.

“(3) The supervising Returning Officer—

“(a) Shall have, in relation to the election of that local authority, the functions, duties and powers of a Returning Officer under sections 11 to 18, 20 (1), 39 (4), 42 (5) (b), and 44 of this Act; and

“(b) Shall provide to the other Returning Officers such information as is necessary to enable them to conduct the election of members of the local authority; and

“(c) Where the local authority is a regional council, shall check that no person has been nominated contrary to section 101GA of the Local Government Act 1974 and, where any person is identified as having been so nominated, shall inform the Returning Officer for any constituent authority for which that person has been nominated that that person has been so

nominated contrary to section 101GA of the Local Government Act 1974.

“(4) The Returning Officers responsible for conducting the election shall provide to the supervising Returning Officer such information as is necessary to the performance of the supervising Returning Officer’s functions and duties.”

**6. Compilation of electoral roll**—Section 7B(1) of the principal Act (as substituted by section 2 of the Local Elections and Polls Amendment Act 1991) is hereby amended by omitting the words “local authority”, and substituting the words “territorial authority”.

**7. Ratepayer electoral roll**—Section 7BB(1) of the principal Act (as inserted by section 2 of the Local Elections and Polls Amendment Act 1991) is hereby amended by omitting the expression “1st day of April”, and substituting the expression “1st day of March”.

**8. Enrolment on ratepayer electoral roll**—Section 7BE of the principal Act (as inserted by section 2 of the Local Elections and Polls Amendment Act 1991) is hereby amended by inserting, after subsection (2), the following subsections:

“(2A) Nothing in subsection (1) of this section shall require the principal administrative officer to send an application for enrolment to the occupier or occupiers of a separately rateable property where, at the time enrolment forms are sent under that subsection, no person is qualified as an elector in respect of that property under sections 101F(2)(d) and 101F(2)(e)(i) of the Local Government Act 1974 or is capable of being nominated in respect of that property under section 7BG of this Act.

“(2B) Where any person or persons are listed on the valuation roll as the occupier or occupiers, as the case may be, of more than one separately rateable property—

“(a) Within the same subdivision or subdivisions within a territorial authority district; or

“(b) If no such subdivision exists, within the territorial authority district,—

it shall be sufficient, for the purposes of subsection (1) of this section, for the principal administrative officer to send to that person or those persons, by reason of that person or those persons being so listed, one application for enrolment in the prescribed form.”

**9. Returning Officer**—Section 8 (3) of the principal Act is hereby amended by omitting the word “Chairman”, and substituting the word “Chairperson”.

**10. Declaration of Returning Officer, Deputy Returning Officers, poll clerks, and interpreters**—Section 10 (1) of the principal Act (as substituted by section 4 (1) of the Local Elections and Polls Amendment Act 1982) is hereby amended by omitting the word “Chairman”, and substituting the word “Chairperson”.

**11. Nomination of candidates**—Section 12 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) If any person is nominated, with that person’s consent, for election—

“(a) In more than one subdivision of a local authority; or

“(b) To a regional council for a region and to one or more constituent authorities, contrary to section 101<sup>GA</sup> of the Local Government Act 1974, of that region,—  
all such nominations shall be void.”

**12. Forfeiture of deposit, and refund of deposit**—Section 15 of the principal Act is hereby amended by omitting the words “borough or district” in both places where they appear in paragraphs (d) and (e) (as substituted by section 7 of the Local Elections and Polls Amendment Act 1982), and substituting in each case the words “territorial authority”.

**13. Death or incapacity of candidate for Mayor after close of nominations**—Section 22 of the principal Act (as substituted by section 10 of the Local Elections and Polls Amendment Act 1982) is hereby amended—

(a) By omitting from subsection (1) the words “borough or a district”, and substituting the words “territorial authority”; and

(b) By omitting from subsection (6) the words “borough or district”, and substituting the words “territorial authority”.

**14. Election to fill extraordinary vacancies in local authority**—(1) Section 51 (1) of the principal Act (as substituted by section 20 (1) of the Local Elections and Polls Amendment Act 1982) is hereby amended by omitting the words “(not being the office of Mayor)”.

(2) Section 51 of the principal Act (as so substituted) is hereby amended by repealing subsections (2) and (3).

(3) Section 51 (4) of the principal Act (as so substituted) is hereby amended by omitting the word “Council”, and substituting the words “local authority”.

(4) Section 51 of the principal Act (as so substituted) is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) Where, under subsection (1) (b) of this section, a local authority determines that a vacancy shall be filled by an appointment to be made by the local authority, the local authority shall forthwith give public notice of its decision, and not less than the specified number of electors for the time being on the roll of the local authority, by notice in writing under their hands delivered at the office of the local authority not later than 22 working days after the date of the giving of that public notice, may demand that an election be held to fill the vacancy. If such a demand is made, an election shall be held accordingly.”

(5) Section 51 (7) of the principal Act (as so substituted) is hereby amended by omitting the words “(other than a territorial authority which, in accordance with subsection (2) of this section, has resolved not to fill a vacancy)”.

**15. Issue of voting papers**—(1) The principal Act is hereby amended by repealing section 68 (as amended by section 23 of the Local Elections and Polls Amendment Act 1982 and section 16 of the Local Elections and Polls Amendment Act 1988), and substituting the following section:

“68. (1) As soon as practicable after the 16th day before the date on which the election is to be held and in any case not later than the 10th day before that date, the Returning Officer shall forward by post addressed to each elector at the address shown against that elector’s name on the roll, or at the elector’s usual postal address in New Zealand, if to the knowledge of the Returning Officer that address is different from the address shown on the roll, one voting paper in respect of that election of members of the local authority and one voting paper in respect of every other election held concurrently with that election, together with an envelope stamped and addressed to the Returning Officer.

“(2) Every such envelope shall, in addition to the address of the Returning Officer, bear the consecutive number or the page and line number, or all of them, of the elector’s name on the roll, and, in the case of a local authority whose local

government area is subdivided for electoral purposes, the name of the subdivision of the local government area in which the elector is entitled to vote at that election.

“(3) Notwithstanding anything in subsection (2) of this section, where the envelope provided under subsection (1) of this section for the return of voting papers is a window envelope, it shall not be necessary for that envelope to bear on its outer surface the information specified in subsection (2) of this section if—

“(a) The information is included with the voting paper in such a manner that the voter can make the information visible through the window of the envelope; and

“(b) The Returning Officer has included with the voting paper clear instructions concerning the manner in which the information can be made visible through the window of the envelope.

“(4) In any case where the Returning Officer considers it desirable to do so,—

“(a) The Returning Officer may also include on the envelope the names of any other elections which the Returning Officer is required to conduct at the same time:

“Provided that where in any case the elector is not entitled to vote at any such other election, the name of that other election shall be struck out on the envelope:

“(b) The Returning Officer may include clauses 3 to 5 of the ‘Directions to Voters’ section of the voting paper, together with any instructions under subsection (3) (b) of this section, separately with the voting paper:

“(c) The Returning Officer may include with the voting paper a translation in whatever language the Returning Officer considers necessary of the ‘Directions to Voters’ section of the voting paper and any instructions under subsection (3) (b) of this section.

“(5) The accidental omission by the Returning Officer to forward voting papers to an elector whose name appears on the roll, shall not be a ground on which a petition for an inquiry into the conduct of the election may be founded.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 23 of the Local Elections and Polls Amendment Act 1982:



(b) Section 16 of the Local Elections and Polls Amendment Act 1988.

**16. Form of voting papers**—Section 96 (1) of the principal Act is hereby amended by omitting the expression “subsections (2) and (3)”, and substituting the expression “subsection (2)”.

**17. First Schedule amended**—(1) The First Schedule to the principal Act is hereby amended by omitting from form 1 the word “Chairman” in both places where it appears, and substituting in each case the word “Chairperson”.

(2) The First Schedule to the principal Act is hereby further amended by repealing forms 9 and 10, and substituting the forms 9 and 10 set out in the Schedule to this Act.

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Section 17 (2)

**SCHEDULE**

**NEW FORMS 9 AND 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL ACT**

Section 96 (1)

**Form 9**

**VOTING PAPER AT A POLL ON A PROPOSAL (OTHER THAN A LOAN PROPOSAL)**

*[Consecutive number]*

*Directions to Voter*

**(Read carefully before voting)**

1. If you support the proposal, write "✓" in the circle at the end of the line "I Vote For the Proposal". If you oppose the proposal, write "✓" in the circle at the end of the line "I Vote Against the Proposal".
2. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.
3. If you spoil this voting paper, you may return it to the officer who issued it and apply for a fresh one.
4. This voting paper must not be taken out of the polling booth.

VOTING PAPER

*[Name of local government area]*

Proposal to *[State full particulars of the proposal]*



**Vote Here**

I VOTE FOR THE PROPOSAL	<input type="radio"/>
I VOTE AGAINST THE PROPOSAL	<input type="radio"/>

SCHEDULE—continued

NEW FORMS 9 AND 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL ACT—continued

Form 10

Section 96 (2)

VOTING PAPER AT A POLL ON A LOAN PROPOSAL

[Consecutive number]

Directions to Voter

(Read carefully before voting)

1. If you wish to vote *for* the loan, write “✓” in the circle at the end of the line “I Vote For the Loan”. If you wish to vote *against* the loan, write “✓” in the circle at the end of the line “I Vote Against the Loan”.
2. After voting, fold the voting paper so that its contents cannot be seen and place it in the ballot box.
3. If you spoil this voting paper, you may return it to the officer who issued it and apply for a fresh one.
4. This voting paper must not be taken out of the polling booth.

VOTING PAPER

[Name of local government area]

Proposal to Raise a Special Loan Under the Local Authorities Loans Act 1956

[Insert the information specified in paragraphs (b) to (e) of section 35 of that Act, and any other statements required by the Local Authorities Loans Board.]



Vote Here

I VOTE FOR THE LOAN	<input type="radio"/>
I VOTE AGAINST THE LOAN	<input type="radio"/>

This Act is administered in the Department of Internal Affairs.