

Electoral (Vacancies) Amendment Bill

Government Bill

Explanatory note

General policy statement

Section 55(1)(b) and (c) of the Electoral Act 1993 provides that a member's seat is vacated if the member swears allegiance to, or obtains citizenship of, any foreign power. The provisions date from 1852. The predecessor to section 55 was amended in 1981 to make clear that subsection (1)(c) did not apply to the involuntary acquisition of foreign citizenship through marriage. Persons with dual citizenship can stand and be elected to the New Zealand House of Representatives, and it is only members who acquire dual citizenship after election to whom these provisions apply. As such, these provisions are anomalous in both principle and practice and need a thorough review.

The policy of this Bill is to ensure that the seats of members elected to the 47th Parliament are not vacated by operation of section 55(1)(b) and (c) of the Electoral Act 1993. The Bill also provides that the seat of a member of Parliament who is a New Zealand citizen becomes vacant if he or she ceases to be a New Zealand citizen.

This Bill is intended as a temporary measure pending a full review of section 55(1)(b) and (c) of the Electoral Act 1993 by the Justice and Electoral Select Committee.

Clause by clause analysis

Clause 1 is the Title clause.

Part 1

Preliminary provisions

Clause 2 provides that the Bill comes into force on the day on which it receives the Royal assent.

Clause 3 provides that the Bill expires with the close of polling day for the first general election held after the date on which the Bill (when enacted) comes into force.

Part 2

Change to vacancy rules

Clause 4 provides that section 55(1)(b) and (c) of the principal Act do not apply to any member of Parliament.

Clause 5 gives *clause 4* retrospective effect to 14 August 2002.

Clause 6 provides that the seat of a member of Parliament who is a New Zealand citizen becomes vacant if he or she ceases to be a New Zealand citizen.

Hon Rick Barker

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Contents

| | | | |
|---|-------------------------------|---|---|
| 1 | Title | | Part 2 |
| | Part 1 | | Change to vacancy rules |
| | Preliminary provisions | 4 | Section 55(1)(b) and (c) of principal Act not to apply |
| 2 | Commencement | 5 | Retrospective effect of change to vacancy rules made by section 4 |
| 3 | Expiry | 6 | Additional ground of vacancy |

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Electoral (Vacancies) Amendment Act **2003**.
- (2) In this Act, the Electoral Act 1993¹ is called “the principal Act”.

¹ 1993 No 87

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Part 1 **Preliminary provisions**

2 Commencement

This Act comes into force on the day on which it receives the Royal assent.

3 Expiry

This Act expires with the close of polling day for the first general election held after the date on which this Act comes into force.

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Part 2

Change to vacancy rules

- 4 Section 55(1)(b) and (c) of principal Act not to apply**
Section 55(1)(b) and (c) of the principal Act do not apply to any member of Parliament. 5
- 5 Retrospective effect of change to vacancy rules made by section 4**
For all purposes, the question of whether the seat of a member of Parliament became vacant before the commencement of this Act must be determined as if **section 4** of this Act had come into force on 14 August 2002. 10
- 6 Additional ground of vacancy**
Section 55(1) of the principal Act must be read as if, after paragraph (d), the following paragraph was inserted:
“(da) if he or she (being a person who is a New Zealand citizen) ceases to be a New Zealand citizen; or” 15