

Parliamentary Service Amendment Bill

Government Bill

Explanatory note

General policy statement

The Parliamentary Service Act 2000 provides for the Speaker to give directions for the provision of administrative and support services to members of Parliament, and the payment of funding entitlements for parliamentary purposes.

Although legally there are no members of Parliament between the close of the polling day at a general election and the formal declaration of the election results a number of days later, it has for many years been the practice to make certain travel and accommodation entitlements available to candidates during this period where it is clear that they are likely to be elected. (This practice has also applied to a candidate at by-election who seems likely to be elected.)

It has also for many years been the practice to continue support and funding entitlements during this period for candidates who were members before polling day.

It is now doubtful that these practices have been authorised by the applicable legislation.

The purpose of this Bill is to authorise the Speaker to give (in relation to certain candidates for election) directions on the extent to which administrative and support services are to be provided, and the payment of funding entitlements for parliamentary purposes are

to be administered, during the period between polling day and the recognition of candidates as members; and to give authority for the Parliamentary Service to approve expenditure in respect of these candidates in accordance with the Speaker's directions.

Clause by clause analysis

Clause 1 states the Bill's Title.

Clause 2 provides that the Bill comes into force on the day after assent.

Clause 3 provides that the Bill amends the Parliamentary Service Act 2000.

Clause 4 inserts into the principal Act *new sections 9A to 9D* relating to the provision of services, and the administration of the payment of funding entitlements for parliamentary purposes, in relation to candidates for election to Parliament who are not members of Parliament.

New section 9A specifies the electoral candidates to whom *new section 9C* applies. It distinguishes between 2 classes of candidate.

The first (as described in *subsections (1) and (2)*) is—

- a candidate at a general election who is a member of the outgoing Parliament vacating office on the polling day for the election; or
- a candidate at a by-election who is the former holder of the seat concerned.

The application of *new section 9C* to such a candidate begins on polling day and ends on the declaration of a result (even if earlier it is clear that he or she will not be elected).

The second (as described in *subsections (3) and (4)*) is—

- a candidate at a general election who is not a member of the outgoing Parliament; or
- a candidate at a by-election who is not the former holder of the seat concerned (or an existing list member).

The application of *new section 9C* to such a candidate arises only if, in the opinion of the General Manager of the Parliamentary Service (formed in the light of the election night results), it is clear that the person will be declared elected. But if it does arise, it will also begin on polling day and end on the declaration of a result.

New section 9B empowers the Speaker to give directions on the extent to which services are to be provided, and how the payment of funding entitlements is to be administered, in relation to electoral candidates to whom *new section 9C* applies.

Subsection (1) empowers the Speaker to give the directions.

Subsection (2) provides that directions—

- may apply to all candidates, or may apply differently to candidates of different descriptions, or to the holders or former holders of different offices (for example the Speaker or the Leader of the Opposition); and
- may state criteria to which the General Manager is to have regard in providing services and administering the payment of entitlements.

Subsection (3) makes clear that a direction may provide that the General Manager is to determine whether some or all of the criteria stated in it have been met.

New section 9C then requires administrative and support services to be provided to candidates to whom that section applies in accordance with the Speaker's directions, and requires the payment of funding entitlements for parliamentary purposes to be administered accordingly.

New section 9D requires the Speaker to take into account advice and recommendations of the Parliamentary Service Commission when giving directions under *new section 9B(1)*.

Hon Dr Michael Cullen

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Parliamentary Service Amendment Act **2008**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

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3 Principal Act amended

This act amends the Parliamentary Service Act 2000.

4 New sections 9A to 9D inserted

The following sections are inserted after section 9:

- “9A Application of section 9C to electoral candidates** 5
- “(1) If a person vacates the office of member of Parliament under section 54(1)(b) or (2)(b) of the Electoral Act 1993 at the close of a polling day but is a candidate in the general election concerned, **section 9C** applies to him or her at any time if (and only if) the time is between the close of the polling day and— 10
- “(a) in the case of a person who is a candidate for a seat in the House of Representatives representing an electoral district, the day on which a person (whether that person or some other person) is declared elected to represent the district concerned: 15
- “(b) in the case of a person whose name is specified in a party list, the day on which, under section 193(5) of the Electoral Act 1993, the Chief Electoral Officer declares candidates to be elected in the election. 20
- “(2) If a candidate at a by-election is the former member of Parliament whose vacation of the seat concerned caused the by-election to be required, **section 9C** applies to him or her at any time if (and only if) the time is between the close of the polling day and the day on which a person (whether that person or some other person) is declared elected to represent the district 25
- concerned.
- “(3) If a candidate at a general election did not vacate the office of member of Parliament under section 54(1)(b) or (2)(b) of the Electoral Act 1993 at the close of the polling day for the election, **section 9C** applies to him or her at any time if (and 30
- only if)—
- “(a) in the opinion of the General Manager (formed in the light of the election night results) it is clear that the person will be declared elected; and
- “(b) the time is between the close of the day before the 35
- day on which the General Manager formed the opinion and—

- “(i) in the case of a person who is a candidate for a seat in the House of Representatives representing an electoral district, the day on which a person (whether that person or some other person) is declared elected to represent the district concerned: 5
- “(ii) in the case of a person whose name is specified in a party list, the day on which, under section 193(5) of the Electoral Act 1993, the Chief Electoral Officer declares candidates to be elected in the election. 10
- “(4) If a candidate at a by-election is neither a member of Parliament nor the former member of Parliament whose vacation of the seat concerned caused the by-election to be required, **section 9C** applies to him or her at any time if (and only if)— 15
- “(a) in the opinion of the General Manager (formed in the light of the election night results) it is clear that the person will be declared elected; and
- “(b) the time is between the close of the day before the day on which the General Manager formed the opinion and the day on which a person (whether that person or some other person) is declared elected to represent the district concerned. 20
- “**9B Speaker may give directions for provision of services and funding for parliamentary purposes in relation to certain electoral candidates** 25
- “(1) The Speaker may give directions on the extent to which administrative and support services are to be provided, and how the payment of funding entitlements for parliamentary purposes is to be administered, in relation to people to whom **section 9C** applies. 30
- “(2) Directions—
- “(a) may apply to all people to whom **section 9C** applies, or may apply differently to—
- “(i) people of different descriptions: 35
- “(ii) the holders or former holders of different offices; and

- “(b) may state criteria to which the General Manager is to have regard in providing services and administering the payment of funding entitlements for parliamentary purposes.
- “(3) A direction may provide that the General Manager is to determine whether some or all of the criteria stated in it have been met. 5
- “**9C Provision of services and funding for parliamentary purposes in relation to certain electoral candidates**
While (by virtue of **section 9A**) this section applies to a person,— 10
- “(a) administrative and support services must be provided in respect of him or her in accordance with directions under **section 9B(1)**; and
- “(b) the payment of funding entitlements for parliamentary purposes must be administered accordingly. 15
- “**9D Speaker to take into account advice and recommendations of Commission**
- “(1) It is a function of the Parliamentary Service Commission to advise the Speaker on— 20
- “(a) the nature of the services to be provided under **section 9C(a)**; and
- “(b) the objectives to be achieved by the Service by providing those services.
- “(2) In giving directions under **section 9B(1)**, the Speaker must take into account any relevant advice and any relevant recommendation given or made by the Parliamentary Service Commission under **subsection (1)**.” 25
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