

# Electoral Act 1993

Public Act 1993 No 87  
Date of assent 17 August 1993

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**An Act to reform the electoral system and to provide, in particular, if the proposal for the introduction of the mixed member proportional system is carried at the referendum held under the Electoral Referendum Act 1993,—**

- (a) For the introduction of the mixed member proportional system of representation in relation to the House of Representatives:**
- (b) For the establishment of an Electoral Commission:**
- (c) For the repeal of the Electoral Act 1956**

**BE IT ENACTED by the Parliament of New Zealand as follows:**

**1 Short Title**

This Act may be cited as the Electoral Act 1993.

**2 Commencement**

- (1) If the Chief Electoral Officer makes, in accordance with section 19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the introduction of the proposed mixed member proportional system as provided in this Act is carried, Part 4 and Parts 6 to 9 of this Act and Schedules 2 and 3 to this Act shall, except as provided in subsection (2) of this section, come into force on the 1st day of July 1994.
- (2) If the Chief Electoral Officer makes, in accordance with section 19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the introduction of the proposed mixed member proportional system as provided in this Act is carried, section 3 of this Act and Parts 1, 2, 3, and 5 of this Act and sections 267, 269, and 270 of this Act and Schedule 1 to this Act shall come into force on the day after the date on which that declaration is published in the *Gazette*.
- (3) If the Chief Electoral Officer makes, in accordance with section 19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the introduction of the proposed mixed member proportional system as provided in this Act is not carried,—

- (a) Section 3 of this Act and Parts 1 to 9 of this Act and Schedules 1, 2, and 3 to this Act shall not come into force; and
  - (b) On the 1st day of July 1994, this Act shall be deemed to be repealed.
- (4) Except as provided in subsections (1) to (3) of this section, this Act shall come into force on the day on which it receives the Royal assent.

### 3 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**Adult**—

- (a) Means a person of or over the age of 18 years; but
- (b) Where a writ has been issued for an election, includes, on or after the Monday immediately before polling day, a person under the age of 18 years if that person's 18th birthday falls in the period beginning on that Monday and ending on polling day:

**anonymous**,—

- (a) in relation to a constituency candidate donation as defined in section 210(9), means a donation that is made in such a way that the candidate does not know who made the donation:
- (b) in relation to a party donation (as that term is defined in section 214F), means a donation that is made in such a way that none of the following knows who made the donation:
  - (i) the candidates of the party to which the donation is made:
  - (ii) the persons involved in the administration of the affairs of that party

anonymous: this definition was inserted, as from 28 February 2002, by section 3(4) Electoral Amendment Act 2002 (2002 No 1).

**Bribery** has the meaning assigned to that term by section 216 of this Act

**By-election** means any election other than a general election

**Candidate** means any person who has been nominated as a candidate for a seat in the House of Representatives and any person whose name is specified in a party list; and, in Parts

7 and 8 of this Act, includes any person who has declared his or her intention of becoming a candidate

**Census** means the census of population and dwellings carried out by the Department of Statistics pursuant to the Statistics Act 1975

**Chief Electoral Officer** means the Chief Electoral Officer appointed under this Act; and includes any person authorised to exercise the powers, duties, and functions of the Chief Electoral Officer

**Chief Registrar** means the Chief Registrar of Electors holding office under section 21 of this Act; and includes his or her deputy

**Clerk of the Writs** *[Repealed]*

Clerk of the Writs: this definition was repealed, as from 28 February 2002, by section 3(1) Electoral Amendment Act 2002 (2002 No 1).

*[Repealed]*

**Component party** means, in relation to a registered political party (in this definition called **the registered party**) or in relation to a political party that is applying for registration (in this definition called the **applicant party**),—

- (a) A political party that is a member of the registered party or of the applicant party; or
- (b) A political party that has combined some or all of its membership with that of another political party and thereby formed the registered party or the applicant party or augmented the membership of such a party, as the case may be:

Component party: this definition was inserted, as from 6 December 1995, by section 2(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

**Constituency candidate** means a person who has been nominated as a candidate for a seat in the House of Representatives representing an electoral district

**Corrupt practice** means any act declared by this Act to be a corrupt practice

**Corrupt Practices List**, in relation to any district, means the Corrupt Practices List made out for that district under section 100 of this Act

**Costs** includes charges and expenses

**Crown** means Her Majesty in respect of the Government of New Zealand

**current financial member**, in relation to a political party, means a member of the party—

- (a) whose membership of the party resulted from an application made by the member to join the party; and
- (b) who is, under the party's rules, subject to an obligation to pay to the party a membership fee—
  - (i) on becoming a member; and
  - (ii) then at specified intervals of not more than 3 years; and
- (c) who has paid to the party every membership fee that has for the time being become payable by the member in accordance with those rules

current financial member: this definition was inserted, as from 28 February 2002, by section 3(4) Electoral Amendment Act 2002 (2002 No 1).

**Deputy Returning Officer***[Repealed]*

Deputy Returning Officer: this definition was repealed, as from 28 February 2002, by section 3(1) Electoral Amendment Act 2002 (2002 No 1).

*[Repealed]*

**District** or **electoral district** or **electorate** means a General electoral district or a Maori electoral district constituted under this Act

**Election** means an election of a member of the House of Representatives

**election expenses**,—

- (a) in relation to a candidate at an election, has the meaning given to it in section 213;
- (b) in relation to a party that is registered under Part 4, has the meaning given to it in section 214B

Election expenses: this definition was substituted, as from 28 February 2002, by section 3(2) Electoral Amendment Act 2002 (2002 No 1).

**Elector**, in relation to any district, means a person registered, or qualified to be registered, as an elector of that district

**Electoral Commission** means the Commission established by section 4 of this Act

**Electoral Commissioner** or **Commissioner** means any person who holds office as a member of the Electoral Commission under section 8(1) of this Act, and includes

any person authorised to exercise the powers, functions, and duties of an Electoral Commissioner

**electoral official** means an official appointed in accordance with section 20

electoral official: this definition was inserted, as from 28 February 2002, by section 3(4) Electoral Amendment Act 2002 (2002 No 1).

**electoral roll**, in relation to any district, means, subject to sections 101 to 103, the forms of application for registration kept by the Registrar of persons registered as electors of that district (including a form returned following an inquiry under section 83)

Electoral roll: this definition was substituted, as from 28 February 2002, by section 3(3) Electoral Amendment Act 2002 (2002 No 1).

**Eligible political party** means a political party that has at least 500 current financial members who are eligible to enrol as electors

Eligible political party: this definition was substituted, as from 6 December 1995, by section 2(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

**Enduring power of attorney** means a power of attorney described in section 95 of the Protection of Personal and Property Rights Act 1988

**General election** means an election that takes place after the dissolution or expiration of Parliament

**General electoral district** means an electoral district other than a Maori electoral district

**General electoral population** means total ordinarily resident population as shown in the last periodical census of population and dwellings with the exception of the Maori electoral population

**Government** means the Government of New Zealand

**Hospital** means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001

Hospital: this definition was substituted, as from 1 October 2002, by section 58(1) Health and Disability Services (Safety) Act 2001 (2001 No 93). See section 11 of that Act for transitional provisions.

**Illegal practice** means any act declared by this Act to be an illegal practice

**issuing officer**, in relation to a polling place, means the manager of the polling place or a person authorised, under section 158(3)(a), to issue ballot papers in the polling place

issuing officer: this definition was inserted, as from 28 February 2002, by section 3(4) Electoral Amendment Act 2002 (2002 No 1).

**Main roll**, in relation to any district, means, subject to section 107 of this Act, the main roll printed for the district and for the time being in force

**manager**, in relation to a polling place, means the person designated, under section 158(2), as the manager of the polling place

manager: this definition was inserted, as from 28 February 2002, by section 3(4) Electoral Amendment Act 2002 (2002 No 1).

**Maori** means a person of the Maori race of New Zealand; and includes any descendant of such a person

**Maori electoral district** means an electoral district constituted under section 45 of this Act

**Maori electoral population** means a figure representing both the persons registered as electors of the Maori electoral districts and a proportion of the persons of New Zealand Maori descent who are not registered as electors of any electoral district and a proportion of the persons of New Zealand Maori descent under the age of 18 years, which figure shall be fixed—

- (a) by ascertaining a proportion determined by dividing—
- (i) the total number of persons registered as at the close of the last day of the period specified in the last notice published under section 77(2) as electors of Maori electoral districts, and persons on the dormant rolls for Maori electoral districts; by
  - (ii) the total number of persons of New Zealand Maori descent registered as at the close of the day referred to in subparagraph (i) as electors of either General electoral districts or Maori electoral districts, and persons on the dormant rolls for Maori electoral districts and General electoral districts; and

- (b) By applying the proportion ascertained under paragraph (a) of this definition to the total number of ordinarily resident persons of New Zealand Maori descent as determined by the last periodical census:

Maori electoral population: paragraph (a) of this definition was substituted, as from 28 February 2002, by section 3(5) Electoral Amendment Act 2002 (2002 No 1).

**medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

medical practitioner: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

**Member of the Defence Force** means any person resident in New Zealand within the meaning of this Act who is for the time being a member of the New Zealand Defence Force constituted by section 11(1) of the Defence Act 1990; and includes any person so resident who is attached to, or employed by, or carries out duties of the New Zealand Defence Force which necessitate his or her being outside New Zealand

**Mental institution** *[Repealed]*

Mental institution: this definition was repealed, as from 1 September 2004, by section 51 Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115). *See* clause 2 Criminal Procedure (Mentally Impaired Persons) Act Commencement Order 2004 (SR 2004/147).

*[Repealed]*

**Meshblock** means statistical meshblock

**Minister** means the Minister of Justice

**New Zealand Post** or **New Zealand Post Limited** means the company called New Zealand Post Limited, which is incorporated under the Companies Act 1955 pursuant to the State-Owned Enterprises Act 1986; and includes that company on its reregistration under the Companies Act 1993

New Zealand Post or New Zealand Post Limited: this definition was amended, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16) by inserting the words “; and includes that company on its reregistration under the Companies Act 1993”.

**Nomination day**, in relation to any election, means the day appointed in the writ for that election as the latest day for the nomination of candidates

**Penal institution***[Repealed]*

Penal institution: this definition was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50). See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

*[Repealed]*

**Permanent resident of New Zealand** has the meaning assigned thereto by section 73 of this Act

**Personation** has the meaning assigned to that term by section 215 of this Act

**Polling day**, in relation to any election, means the day appointed in the writ for that election for the polling to take place if a poll is required

**polling place official** means a person appointed, under section 158(1), as an official for a polling place

polling place official: this definition was inserted, as from 28 February 2002, by section 3(4) Electoral Amendment Act 2002 (2002 No 1).

**Prescribed** means prescribed by this Act or by regulations made thereunder or (for the purposes of Part 8 of this Act) by rules of Court

**prison** means a prison established or deemed to be established under the Corrections Act 2004

prison: this definition was inserted, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50). See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

**Public money** has the same meaning as in the Public Finance Act 1989

**Public notice** or **public notification** means a notice printed in some newspaper circulating in the district intended to be affected by the notice

**Public place** has the same meaning as in section 2 of the Summary Offences Act 1981

**Public servant**—

- (a) Means a person employed in the service of the Crown, not being honorary service; and
- (b) Includes a person employed in—

- (i) The Education service as defined in the State Sector Act 1988; or
- (ii) The Cook Islands Public Service; or
- (iii) The Western Samoan Public Service; but
- (c) Does not include any person to whom subsection (2) or subsection (3) of this section applies; and
- (d) Does not include—
  - (i) Any person by reason of his or her holding an office for which salary is payable under the Civil List Act 1979; or
  - (ii) Any person by reason of his or her being employed in any of Her Majesty's forces except the Royal New Zealand Navy, the Regular Force of the New Zealand Army, or the Regular Air Force of the Royal New Zealand Air Force; or
  - (iii) Any person remunerated by fees or commission and not by wages or salary:

Public servant: paragraph (b)(i) was substituted, as from 3 May 1997, by section 5 State Sector Amendment Act 1997 (1997 No 8).

**Registrar**, in relation to any district, means the Registrar of Electors appointed for that district under section 22 of this Act; and includes his or her deputy

**Registrar of Births and Deaths** means Registrar within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995

Registrar of Births and Deaths: this definition was inserted, as from 28 July 1997, by section 7 Births, Deaths, and Marriages Registration Amendment Act 1997 (1997 No 35).

**Residence** and **to reside** have the meanings assigned thereto by section 72 of this Act

**Returning Officer** means an electoral official designated under section 20B; and includes a person authorised to exercise or perform the powers, duties, or functions of a Returning Officer

Returning Officer: this definition was substituted, as from 28 February 2002, by section 3(6) Electoral Amendment Act 2002 (2002 No 1).

**Roll** means an electoral roll, a main roll, or a supplementary roll, as the case may be; and includes a composite roll printed under section 107 of this Act

**Secretary**, in relation to a political party, means the person (whatever his or her designation or office) whose duties include responsibility for—

- (a) Carrying out the administration of the party; and
- (b) Conducting the correspondence of the party:

**Speaker** means—

- (a) the Speaker of the House of Representatives; or
- (b) if the Speaker of the House of Representatives is (for whatever reason) unable to act, the Deputy Speaker of the House of Representatives; or
- (c) if neither the Speaker of the House of Representatives nor the Deputy Speaker of the House of Representatives is (for whatever reason) able to act, an Acting Speaker of the House of Representatives who is able to act

Speaker: this definition was substituted, as from 28 February 2002, by section 3(7) Electoral Amendment Act 2002 (2002 No 1).

**Special voter**, in relation to any election, means a person qualified under this Act to vote as a special voter at that election

**Statement** includes not only words but also pictures, visual images, gestures, and other methods of signifying meaning

**Supplementary roll**, in relation to any district, means a supplementary roll printed for the district and for the time being in force

**Treating** has the meaning assigned to that term by section 217 of this Act

**Undue influence** has the meaning assigned to that term by section 218 of this Act

**Working day** means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year:

**Writ** means a writ for an election issued under this Act

**Writ day**, in relation to any election, means the day of the issue of the writ for that election.

A reference to a numbered form is a reference to the form so numbered in Schedule 2 to this Act.

- (2) Where any person—
- (a) Is appointed by the Crown, or the Government, or any Department or agency of the Government to be a member of any Commission, Council, Board, Committee, or other body; or
  - (b) Is a member of any Commission, Council, Board, Committee, or other body of which any members receive any payment out of public money,—
- he or she shall not by reason of that membership be deemed to be a public servant, whether or not he or she receives any travelling allowances or travelling expenses.
- (3) No person shall, by reason only of being a head of mission or head of post within the meaning of the Foreign Affairs Act 1988, be deemed to be a State servant within the meaning of section 52(1) of this Act or a public servant, whether or not that person receives any salary, allowances, or expenses.

Compare: 1956 No 107 s 2; 1975 No 28 s 6(2)(a), (b); 1979 No 12 s 3(a), (b); 1980 No 29 ss 2(1)-(4), 3(2), 5(2), (3); 1981 No 120 s 44(2); 1983 No 104 s 2(1); 1986 No 16 s 7(1); 1988 No 34 s 12; 1988 No 159 s 14(1); 1990 No 1 s 2(1), (3)-(6)

## Part 1 Electoral Commission

### 4 Electoral Commission

- (1) For the purposes of this Act, there is hereby established a Commission to be called the Electoral Commission.

(2)

Subsection (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

### 4A Crown Entities Act 2004 to apply

- (1) The Electoral Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to the Electoral Commission except to the extent that this Act expressly provides otherwise.

Section 4A was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## **5 Functions**

The principal functions of the Electoral Commission shall be—

- (a) To carry out such duties in relation to the registration of political parties and political party logos as are prescribed by Part 4 of this Act:
- (b) To supervise political parties' compliance with the financial disclosure requirements of this Act:
- (ba) To carry out such duties in relation to Parliamentary election programmes as are prescribed by Part 6 of the Broadcasting Act 1989:
- (c) To supervise political parties' compliance with the requirements of this Act relating to the filing of returns of election expenses:
- (d) To promote public awareness of electoral matters by means of the conduct of education and information programmes or by other means:
- (e) To consider and report to the Minister or to the House of Representatives on electoral matters referred to the Electoral Commission by the Minister or the House of Representatives.

Section 5 was substituted, as from 6 December 1995, by section 3 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Paragraph (ba) was inserted, as from 1 July 1996, by section 2 Electoral Amendment Act (No 2) 1996 (1996 No 54).

## **6 Powers**

(1)

(2) The Commission shall have the power—

- (a) To initiate, sponsor, and carry out such studies and research as the Commission thinks necessary for the proper discharge of its functions:
  - (aa) To make such inquiries as the Commission thinks necessary for the proper discharge of its functions:
- (b) To publicise, in such manner as the Commission thinks fit, such parts of the Commission's work as the Commission thinks necessary for the proper discharge of the

Commission's functions, and to consult with any persons or classes of persons:

- (c) To request advice, assistance, and information from any Government department or any State enterprise within the meaning of the State-Owned Enterprises Act 1986.
- (3) Subsection (2) does not limit sections 16 and 17 of the Crown Entities Act 2004.

Subsection (1) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (2)(a) was substituted, and subsection (2)(aa) was inserted, as from 6 December 1995, by section 4 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the word "The" for the words "Without limiting the generality of subsection (1) of this section, the,".

Subsection (3) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## 7 **Independence**

The Electoral Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

- (a) this Act; and
- (b) any other Act that expressly provides for the functions, duties, or powers of the Electoral Commission (other than the Crown Entities Act 2004).

Section 7 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## 8 **Membership**

- (1) The Electoral Commission shall consist of—
- (a) The Secretary for Justice:
  - (b) The Chief Judge of the Maori Land Court:
  - (c) One person who shall be appointed by the Governor-General:
  - (d) One person who shall be—
    - (i) A Judge of the District Court or of the High Court or of the Court of Appeal or of the Supreme Court; or

- (ii) A retired Judge of any of the Courts specified in subparagraph (i) of this paragraph.
- (2) The person who holds office under subsection (1)(d) of this section shall be appointed from a list of 3 persons nominated for the purpose by the Chief Justice, and shall be appointed as the President of the Commission.
- (2A) The person who holds office under subsection (1)(d) is also the chairperson of the Commission, despite clause 1(2) of Schedule 5 of the Crown Entities Act 2004.
- (2B) The members of the Commission are the board for the purposes of section 10 of the Crown Entities Act 2004.
- (3) The person who holds office under section 8(1)(c) is the chief executive of the Commission.
- (3A) That person is not an employee of the Commission, despite section 10 of the Crown Entities Act 2004.
- (4) The Electoral Commission shall, for the purposes of its jurisdiction under sections 69 to 80 of the Broadcasting Act 1989, consist of—
  - (a) The members who hold office under subsection (1) of this section; and
  - (b) Two persons (not being public servants directly connected with the administration of this Act or the Broadcasting Act 1989 or members of the House of Representatives), who shall be appointed by the Governor-General on the nomination of the House of Representatives, as members of the Electoral Commission, one of those members being nominated to represent the Government and one to represent Opposition parties.
- (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).

Subsection (1)(d) was substituted, as from 6 December 1995, by section 5 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1)(d)(i) was amended, as from 1 January 2004, by section 48(1) Supreme Court Act 2003 (2003 No 53) by inserting the words “or of the Supreme Court” after the words “Court of Appeal”. See sections 50 to 55 of that Act for the transitional and savings provisions.

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “by the Governor-General”.

Subsections (2A) and (2B) were inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (3) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (3A) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (4) was inserted, as from 1 July 1996, by section 3 Electoral Amendment Act (No 2) 1996 (1996 No 54). *See* section 10 of that Act as to the transitional provision relating to membership of the Electoral Commission.

Subsection (4) was amended, as from 7 December 2004, by section 4(1) Electoral Amendment Act 2004 (2004 No 99) by substituting the words “sections 69 to 80” for the expression “Part 6”.

Subsection (5) was inserted, as from 7 December 2004, by section 4(2) Electoral Amendment Act 2004 (2004 No 99).

## **9 Appointment of Judge as member not to affect tenure, etc**

The appointment of a Judge as a member of the Electoral Commission, or service by a Judge as a member of the Commission, does not affect the Judge’s tenure of the judicial office or the Judge’s rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as a Judge (including those in relation to superannuation) and, for all purposes, the Judge’s services as a member shall be taken to be service as a Judge.

## **10 Term of office**

(1)

(1A) A member of the Electoral Commission appointed under section 8(4)(b) holds office for 12 months or any shorter period stated in the notice of appointment, despite section 32(1)(b) of the Crown Entities Act 2004.

(2)

(3) Section 32(3) of the Crown Entities Act 2004 does not apply to a member of the Electoral Commission appointed under section 8(4)(b).

Subsection (1) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (1A) was inserted, as from 1 July 1996, by section 4(1) Electoral Amendment Act (No 2) 1996 (1996 No 54).

Subsection (1A) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (3) was amended, as from 1 July 1996, by section 4(2) Electoral Amendment Act (No 2) 1996 (1996 No 54) by inserting the words “(not being a member of the Electoral Commission appointed under section 8(4)(b) of this Act)”.

Subsection (3) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## **11 Vacation of office of additional members who hold office for purposes of jurisdiction under Part 6 of Broadcasting Act 1989**

- (1) A member of the Electoral Commission appointed under section 8(4)(b) may be removed for just cause by the Governor-General acting upon an address from the House of Representatives.
- (2) **Just cause—**
  - (a) includes misconduct, inability to perform the functions of office, and neglect of duty; but
  - (b) excludes breach of any of the collective duties of the board or the individual duties of members (unless the act or omission that constitutes the breach comes within paragraph (a)).

- (3) Section 39 of the Crown Entities Act 2004 does not apply to that member.

Subsections (1) and (2) were substituted, as from 6 December 1995, by section 6(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (3A) was inserted, as from 1 July 1996, by section 5 Electoral Amendment Act (No 2) 1996 (1996 No 54).

Section 11 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

### **11A Appointment of deputies**

- (1) In this section, appointed member means a member of the Electoral Commission who has been appointed under section 8(1)(c) or section 8(1)(d) or section 8(4)(b).

- (2) An appointed member may appoint any person as the deputy of the member.
- (3) The member who is the Secretary for Justice may appoint as the deputy of that member an employee of the Ministry of Justice.
- (4) The member who is the Chief Judge of the Maori Land Court may appoint as the deputy of that member the Deputy Chief Maori Land Court Judge.
- (5) Every appointment of a deputy—
  - (a) must be in writing; and
  - (b) must be signed by the member making the appointment.

Sections 11A to 11C were inserted, as from 28 February 2002, by section 4 Electoral Amendment Act 2002 (2002 No 1).

#### **11B Status of deputies**

- (1) A deputy appointed by a member of the Electoral Commission under section 11A may exercise the powers conferred on that member by this Act during any period when that member is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.
- (2) The deputy of the member who holds office as the President of the Electoral Commission has, in addition, authority to act as President of the Commission during any period when the President of the Commission is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.
- (3) A member of the Electoral Commission may, at any time, revoke the appointment of his or her deputy.
- (4)

Sections 11A to 11C were inserted, as from 28 February 2002, by section 4 Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

#### **11C Protection from civil liability**

*[Repealed]*

Sections 11A to 11C were inserted, as from 28 February 2002, by section 4 Electoral Amendment Act 2002 (2002 No 1).

Section 11C was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**12 Delegation of Commission's powers**

*[Repealed]*

Section 12 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**13 Procedure**

*[Repealed]*

Section 13 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**14 Proceedings of Electoral Commission**

The provisions of Schedule 1 to this Act shall have effect in relation to the Electoral Commission and its proceedings.

**15 Annual report**

*[Repealed]*

Section 15 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**Part 2  
Officers**

**16 Clerk of the Writs**

*[Repealed]*

Sections 16 and 17 were repealed, as from 28 February 2002, by section 5 Electoral Amendment Act 2002 (2002 No 1).

**17 Deputy Clerk of the Writs**

*[Repealed]*

Sections 16 and 17 were repealed, as from 28 February 2002, by section 5 Electoral Amendment Act 2002 (2002 No 1).

**18 Chief Electoral Officer**

There shall from time to time be appointed under the State Sector Act 1988 some fit person to be Chief Electoral Officer, who shall be an employee of the Department of Justice and, under the direction of the Minister and of the Secretary for

Justice, shall be charged with the duty of carrying the provisions of this Act (except those of Parts 4 and 5) into effect.

Compare: 1956 No 107 s 5

**19 Deputy Chief Electoral Officer**

There may also from time to time be appointed under the State Sector Act 1988 some fit person to be Deputy Chief Electoral Officer, who, subject to the control of the Chief Electoral Officer, shall have and may exercise all the powers, duties, and functions of the Chief Electoral Officer.

Compare: 1956 No 107 s 6

**20 Electoral officials**

There may be appointed under the State Sector Act 1988 as many electoral officials as are required for the conduct of elections under this Act.

Sections 20 and 20A were substituted, as from 28 February 2002, by section 6(1) Electoral Amendment Act 2002 (2002 No 1).

**20A Electoral officials under direction of Chief Electoral Officer**

- (1) The Chief Electoral Officer may give oral or written directions to all or any electoral officials.
- (2) Every electoral official must exercise or perform his or her powers, duties, and functions in accordance with any directions given by the Chief Electoral Officer.

Section 20A was inserted, as from 6 December 1995, by section 7 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Sections 20 and 20A were substituted, as from 28 February 2002, by section 6(1) Electoral Amendment Act 2002 (2002 No 1).

**20B Designation of Returning Officers**

For every election to be held in a district, the Chief Electoral Officer must, by notice in writing, designate an electoral official as the Returning Officer for the district.

Sections 20B to 20D were inserted, as from 28 February 2002, by section 6(1) Electoral Amendment Act 2002 (2002 No 1).

**20C Chief Electoral Officer and Returning Officers may delegate powers**

- (1) The Chief Electoral Officer and every Returning Officer may each delegate any of his or her respective powers, duties, and functions (other than this power of delegation) to an electoral official.
- (2) The maker of the delegation—
  - (a) must make the delegation in writing and sign it; and
  - (b) may make the delegation subject to any conditions or limits or both.
- (3) The maker of the delegation may revoke at any time, by written notice to the delegate, any delegation made under this section.
- (4) Every person to whom a power, duty, or function is delegated under this section may exercise or perform the power, duty, or function in the same manner and with the same effect as the maker of the delegation could himself or herself have exercised or performed it.
- (5) Every person purporting to act under a delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- (6) A delegation under this section does not affect or prevent the exercise or performance of any power, duty, or function of the maker of the delegation.

Sections 20B to 20D were inserted, as from 28 February 2002, by section 6(1) Electoral Amendment Act 2002 (2002 No 1).

**20D State sector agencies to assist with administration of elections**

- (1) The Chief Electoral Officer may seek assistance from any State sector agency in order to facilitate the effective administration of elections.
- (2) Any agency approached by the Chief Electoral Officer for assistance must have regard to the public interest in a whole-of-government approach to support the effective administration of elections in considering the assistance it can provide.
- (3) Any assistance that a State sector agency provides must be provided in a manner that is consistent with the statutory framework establishing that agency.

- (4) For the purposes of this section, a State sector agency means any part of the State services as defined in section 2 of the State Sector Act 1988, any Crown entity within the meaning of section 7 of the Crown Entities Act 2004, and any State enterprise within the meaning of the State-Owned Enterprises Act 1986.

Sections 20B to 20D were inserted, as from 28 February 2002, by section 6(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 7 of the Crown Entities Act 2004” for the words “section 2 of the Public Finance Act 1989”.

## **21 Chief Registrar of Electors**

- (1) There shall be a Chief Registrar of Electors who shall be the person exercising the powers, duties, and functions for the time being of the Chief Executive of New Zealand Post Limited.
- (2) The Chief Registrar shall, under the direction of the Minister of Justice, be charged with the duty of carrying Part 5 of this Act into effect and to that end the Chief Registrar may, both in that capacity and in the capacity of the Chief Executive of New Zealand Post Limited, provide such computer and other services and such facilities as the Chief Registrar thinks necessary.
- (2A) Without limiting the duty imposed by subsection (2), the Chief Registrar must take all reasonable steps to ensure the accuracy of information held on the electoral roll.
- (3) The Chief Registrar may from time to time appoint an officer or employee of New Zealand Post Limited to be the Deputy Chief Registrar of Electors, who, subject to the control of the Chief Registrar, shall have and may exercise all the functions, duties, and powers of the Chief Registrar.
- (4) The Chief Registrar may from time to time, either generally or particularly, by writing signed by the Chief Registrar, delegate to any officer or employee of New Zealand Post Limited all or any of the Chief Registrar’s powers, except this power of delegation.

- (5) Subject to any general or special directions given or conditions imposed from time to time by the Chief Registrar, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on that officer or employee directly by this Act and not by delegation.
- (6) Every officer or employee purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (7) Any delegation under this section may be made to any specified officer or employee or to officers or employees of a specified class, or to the holder or holders for the time being of a specified office or class of offices.
- (8) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Chief Registrar.
- (9) Any delegation under this section shall until revoked continue in force according to its tenor, notwithstanding that the Chief Registrar by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of the Chief Registrar.

Compare: 1956 No 107 s 7A; 1986 No 124 s 32(1)

Subsection (2A) was inserted, as from 28 February 2002, by section 7 Electoral Amendment Act 2002 (2002 No 1).

## **22 Registrar of Electors**

- (1) There shall be for each electoral district a Registrar of Electors to be appointed by the Chief Registrar.
- (2) Every Registrar shall be an employee of New Zealand Post Limited appointed by name or as the holder for the time being of any specified office and shall, subject to subsection (3) of this section, be stationed at an office occupied by New Zealand Post Limited within the electoral district of which he or she is Registrar.
- (3) Where, in the opinion of the Chief Registrar,—
  - (a) There is no suitable office occupied by New Zealand Post Limited in an electoral district; or

- (b) An officer more suitable for appointment is stationed at an office occupied by New Zealand Post Limited in an adjoining district; or
  - (c) It appears to be in the public interest to do so,—  
he or she may appoint as the Registrar for the district an employee of New Zealand Post Limited stationed at an office occupied by New Zealand Post Limited in an adjoining electoral district.
- (4) The Registrar shall, under the direction of the Chief Registrar,—
- (a) Compile and keep, as required by this Act, the electoral roll for the Registrar's electoral district; and
  - (b) Carry out such other functions and duties as are specified in this Act.
- (5) The Chief Registrar may from time to time appoint an employee of New Zealand Post Limited to be the Deputy Registrar for any electoral district, who, subject to the control of the Registrar, shall have and may exercise all the powers, functions, and duties of the Registrar.
- (6) Neither the Registrar nor his or her deputy shall hold any official position in any political organisation.
- (7) The powers conferred on the Chief Registrar by subsections (1) and (5) of this section include the power to appoint a Registrar or a Deputy Registrar for a named electoral district that is not yet in being or in respect of which a roll has not been compiled.

Compare: 1956 No 107 s 7B; 1980 No 29 s 5(1); 1986 No 124 s 32(1)

### **23 Appropriation of expenses of New Zealand Post Limited**

The expenses incurred by New Zealand Post Limited in the administration of Part 5 of this Act shall be paid out of public money appropriated by Parliament.

Compare: 1956 No 107 s 7C; 1980 No 29 s 5(1); 1986 No 124 s 32(1); 1989 No 44 s 86(1)

### **24 Employees appointed by Chief Electoral Officer**

- (1) The Chief Electoral Officer, with the approval of the Chief Executive of New Zealand Post Limited, may from time to

time appoint any employee of that company to be a Returning Officer or a substitute for a Returning Officer.

- (2) Every substitute while acting for any Returning Officer shall have all the powers, duties, and functions of that Returning Officer.
- (3) Nothing in the State Sector Act 1988 shall apply to any person appointed under this section.

Compare: 1956 No 107 s 8; 1975 No 28 s 3(4)(b); 1986 No 124 s 32(1)

**25 General provision as to Returning Officers**

No Returning Officer shall hold any official position in any political organisation.

Compare: 1956 No 107 s 9(3); 1975 No 28 s 3(4)(d)

**26 Returning Officer to make declaration**

Every Returning Officer shall, before entering on the duties of his or her office, make a declaration in form 1.

Compare: 1956 No 107 s 10

Section 26 was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by omitting the words “and every Deputy Returning Officer”.

**Part 3**

**The House of Representatives**

**27 Members of Parliament**

The House of Representatives shall have as its members those persons who are elected from time to time in accordance with the provisions of the Electoral Act 1956 or this Act, and who shall be known as **members of Parliament**.

Section 27 was amended, as from 30 November 1995, by section 2 Electoral Amendment Act 1995 (1995 No 60) by inserting the words “the Electoral Act 1956 or”.

*Representation Commission*

**28 Representation Commission**

- (1) In order to provide for the periodical readjustment of the representation of the people of New Zealand in the House of Rep-

representatives, there shall be a Commission to be known as the Representation Commission.

- (2) The Commission shall consist of—
- (a) The Surveyor-General:
  - (b) The Government Statistician:
  - (c) The Chief Electoral Officer:
  - (d) The Chairperson of the Local Government Commission:
  - (e) Two persons (not being public servants directly concerned with the administration of this Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council, on the nomination of the House of Representatives, as members of the Commission, one of those members being nominated to represent the Government and one to represent the Opposition:
  - (f) One person (not being a public servant directly concerned with the administration of this Act or a member of the House of Representatives), who shall be appointed as a member of the Commission by the Governor-General by Order in Council, on the nomination of the members of the Commission who hold office under paragraph (a) or paragraph (b) or paragraph (c) or paragraph (e) of this subsection, or a majority of them, to be the Chairperson of the Commission.
- (3) For the purposes of determining the boundaries of the Maori electoral districts, the Commission shall consist not only of the members specified in subsection (2) of this section but also of—
- (a) The chief executive of Te Puni Kokiri:
  - (b) Two persons (not being public servants directly concerned with the administration of this Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council on the nomination of the House of Representatives as members of the Commission, one of those members being nominated to represent the Government and one to represent the Opposition.

- (4) Each of the persons appointed under subsection (3)(b) of this section shall be a Maori.
- (5) Notwithstanding subsection (2)(d) of this section, the Chairperson of the Local Government Commission shall not be entitled to vote on any matter before the Commission, and shall not be regarded as a member of the Commission for the purpose of forming part of a quorum pursuant to section 43(1) of this Act.

Compare: 1956 No 107 s 15(1), (2), (5); 1991 No 68 s 2(1)

### **29 Term of office**

The Chairperson and every member of the Commission who holds office under section 28(2)(e) or section 28(3)(b) of this Act, unless he or she sooner ceases to be a member as provided in section 30 of this Act, shall cease to be a member on the date on which the first periodical census of population is taken after the date of his or her appointment.

Compare: 1956 No 107 s 15(6); 1991 No 68 s 2(1)

### **30 Extraordinary vacancies**

The Chairperson or any member of the Commission who holds office under section 28(2)(e) or section 28(3)(b) of this Act may resign his or her appointment by writing addressed to the Governor-General, in which case, or in case of any such member being convicted of any indictable offence, or of his or her refusing to act, or of his or her death or mental or physical incapacity, or of his or her absence from New Zealand when his or her services are required, the Governor-General may, by Order in Council, appoint another person in his or her stead on the same nomination as in the case of the original appointment:

Provided that, if Parliament is not in session at the time, an appointment of a member to represent the Government or the Opposition may be made on the nomination of the Prime Minister or of the Leader of the Opposition, as the case may be.

Compare: 1956 No 107 s 15(7); 1991 No 68 s 2(1)

### **31 Remuneration and travelling allowances**

There shall be paid out of money appropriated by Parliament for the purpose to the Chairperson and each member of the

Commission who holds office under section 28(2)(e) or section 28(3)(b) of this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and the Commission shall be a statutory Board for the purposes of that Act.

Compare: 1956 No 107 s 15(8); 1991 No 68 s 2(1)

### **32 Deputies of appointed members**

- (1) In this section **appointed member** means a member of the Commission appointed under section 28(2)(e) or section 28(2)(f) or section 28(3)(b) of this Act.
- (2) Any appointed member may from time to time, by writing under his or her hand, appoint any person to be the deputy of that appointed member.
- (3) No person other than a Maori shall be appointed under this section as the deputy of a member of the Commission appointed under section 28(3)(b) of this Act.
- (4) The deputy of any appointed member may exercise the powers conferred on that appointed member by this Act during any period when that appointed member is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.
- (5) The deputy of the appointed member who holds office as the Chairperson of the Commission shall, in addition, have authority to act as Chairperson of the Commission during any period when the Chairperson of the Commission is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.
- (6) Every deputy appointed under this section shall hold office during the pleasure of the appointed member by which that deputy was appointed.
- (7) No act done by any deputy appointed under this section in that capacity, and no act done by the Commission while any such deputy is so acting, shall in any proceedings be questioned on

the ground that the occasion for so acting had not arisen or had ceased.

Compare: 1956 No 107 s 15A; 1991 No 68 s 2(1)

### **33 Deputies of *ex officio* members**

- (1) Where the Chairperson of the Local Government Commission is unable or likely to be unable to perform his or her duties as a member of the Representation Commission because of illness, absence, or any other reason, and it appears to the Minister of Local Government that the inability to perform the duties is likely to continue for a period of more than 14 days, the Minister of Local Government may appoint a deputy (who shall be another member of the Local Government Commission) to perform all the functions, duties, and powers of the Chairperson of the Local Government Commission in his or her capacity as a member of the Representation Commission.
- (2) The Deputy Surveyor-General appointed pursuant to section 8 of the Survey Act 1986 shall have and may exercise, subject to the control of the Surveyor-General, all the functions, duties, and powers of the Surveyor-General in his or her capacity as a member of the Commission.
- (3) Any Deputy Government Statistician appointed pursuant to section 17 of the Statistics Act 1975 shall have and may exercise, subject to the control of the Government Statistician, all the functions, duties, and powers of the Government Statistician in his or her capacity as a member of the Commission.
- (4) The Deputy Chief Electoral Officer appointed pursuant to section 19 of this Act shall have and may exercise, subject to the control of the Chief Electoral Officer, all the functions, duties, and powers of the Chief Electoral Officer in his or her capacity as a member of the Commission.
- (5) Where the chief executive who holds office under section 28(3)(a) of this Act as a member of the Commission is unable or likely to be unable to perform his or her duties as such a member because of illness, absence, or any other reason, or where there is a vacancy in the position of that chief executive, that chief executive or any acting chief executive acting under section 40(1) of the State Sector Act 1988 may appoint a deputy nominated by the chief executive to perform all the

functions, duties, and powers of the chief executive in his or her capacity as a member of the Representation Commission.

- (6) Every deputy appointed under subsection (1) or subsection (5) of this section shall hold office during the pleasure of the person by which that deputy was appointed.
- (7) No act done by any deputy to which this section applies and no act done by the Commission while any such deputy is so acting, shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.
- (8) Nothing in section 41(1) of the State Sector Act 1988 authorises a chief executive or acting chief executive or deputy of a chief executive to delegate to any other person any of the functions, duties, or powers of the chief executive or acting chief executive or deputy of the chief executive in his or her capacity as a member of the Representation Commission.

Compare: 1956 No 107 s 15B; 1991 No 68 s 2(1)

Subsection (5) was amended, as from 25 January 2005, by section 19(1) State Sector Amendment Act (No 2) 2004 (2004 No 114) by substituting the words “nominated by the chief executive” for the words “(who shall be a member of the senior executive service employed in the Department of which the chief executive is the administrative head)”.

### **34 Submissions**

Any political party to which a member of Parliament belongs and any independent member of Parliament and any political party whose candidates have, at the immediately preceding general election, obtained 5 percent or more of the valid votes cast by electors at that general election may make submissions to the Commission in relation to the matters to be considered by the Commission under section 35(3) of this Act or section 45(6) of this Act.

Compare: 1956 No 107 s 15C; 1991 No 68 s 2(1)

Section 34 was amended, as from 17 December 1993, by section 8 Electoral Amendment Act (No 2) 1995 (1995 No 61) by inserting the words “or section 45(6) of this Act”.

### **35 Division of New Zealand into General electoral districts**

- (1) It shall be the duty of the Commission to divide New Zealand into General electoral districts from time to time in accordance with this section and section 269 of this Act.

- (2) The Commission—
  - (a) Shall effect the first division under subsection (1) of this section as soon as practicable after the commencement of this section; and
  - (b) Shall, in accordance with section 77(5) of this Act, effect the second division under subsection (1) of this section after the census taken in the year 1996; and
  - (c) Shall effect such subsequent division under subsection (1) of this section only after each subsequent periodical census and on no other occasion.
- (3) Subject to section 269 of this Act, each division effected under subsection (1) of this section shall be effected on the following basis:
  - (a) The South Island shall be divided into 16 General electoral districts:
  - (b) The General electoral population of the South Island shall be divided by 16, and the quotient so obtained shall be the quota for the South Island:
  - (c) The General electoral population of the North Island shall be divided by the quota for the South Island, and the quotient so obtained shall be the number of General electoral districts in the North Island. Where that quotient includes a fraction, the fraction shall be disregarded unless it exceeds a half, in which case the number of such General electoral districts shall be the whole number next above that quotient:
  - (d) The quota for the North Island shall be ascertained by dividing the General electoral population of that Island by the number of General electoral districts in that Island, as ascertained under paragraph (c) of this subsection:
  - (e) The extent of each General electoral district in each Island shall be such that, at the time of making the division, the General electoral population of the General electoral district shall, subject to the provisions of paragraphs (f) and (g) of this subsection and to the provisions of section 36 of this Act as to the allowance, be equal to the quota for that Island:

- (f) In forming the several General electoral districts, due consideration shall be given to—
    - (i) The existing boundaries of General electoral districts; and
    - (ii) Community of interest; and
    - (iii) Facilities of communications; and
    - (iv) Topographical features; and
    - (v) Any projected variation in the General electoral population of those districts during their life:
  - (g) No General electoral district shall be situated partially in the North Island and partially in the South Island.
- (4) As soon as possible after each periodical census, the Surveyor-General shall call a meeting of the members of the Commission who hold office under any of the provisions of paragraphs (a) to (e) of section 28(2) of this Act for the purpose of nominating a Chairperson of the Commission.
- (5) As soon as possible after each periodical census and each period specified in a notice published under section 77(2) of this Act, the Chief Registrar shall supply the Government Statistician with the information that he or she is required to supply to the Government Statistician under section 77(6) of this Act.
- (6) When the Government Statistician—
- (a) Has the results of the census; and
  - (b) Has been supplied by the Chief Registrar with the information that he or she is required, under section 77(6) of this Act, to supply to the Government Statistician as soon as practicable after the last day of the period specified in the notice published under section 77(2) of this Act,—
- the Government Statistician shall thereupon report the results of the census and his or her calculation of the Maori electoral population as at the close of the last day of that period to the Surveyor-General and to the other members of the Commission.
- (7) Upon receipt of the report of the Government Statistician, the Surveyor-General shall prepare maps showing the distribution of the population and provisional boundaries for the electoral districts, and shall then call a meeting of the Commission.

- (8) The report so made by the Government Statistician, and the maps so prepared by the Surveyor-General, shall be sufficient evidence as to the General electoral population of New Zealand or of the North Island or of the South Island or of any district.

Compare: 1956 No 107 s 16; 1965 No 17 s 3; 1980 No 29 s 6; 1981 No 120 s 4; 1985 No 149 s 3(2), (3); 1991 No 68 s 3(1)

**36 Allowance for adjustment of quota**

Where, in the opinion of the Commission, General electoral districts cannot be formed consistently with the considerations provided for in section 35 of this Act so as to contain exactly the quota, the Commission may for any General electoral district make an allowance by way of addition or subtraction of General electoral population to an extent not exceeding 5 per cent.

Compare: 1956 No 107 s 17; 1980 No 29 s 7

**37 Classification of electoral districts for purposes of pay or allowances**

The Representation Commission, if it is informed by the Remuneration Authority that it requires the districts to be classified for the purposes of determining salaries or allowances or both under the Remuneration Authority Act 1977, shall classify those districts in accordance with the categories given to it by the Remuneration Authority.

Compare: 1956 No 107 s 17A; 1981 No 120 s 5

Section 37 was amended, as from 1 April 2003, by section 4(1) Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54) by substituting the words “Remuneration Authority” for the words “Higher Salaries Commission” wherever they appear.

**38 Notice of proposed boundaries and classification**

- (1) When the Commission proposes to make a division under section 35 or section 45 of this Act, it shall publish in the *Gazette* a notice—

- (a) Stating places at which the public may inspect, without charge,—
- (i) The names, and a description of the boundaries, of the proposed districts; and

- (ii) Any classification of the proposed districts that is required for the purposes of the Remuneration Authority Act 1977; and
    - (iii) A summary, in respect of each proposed district, of the reasons why the boundaries described are being proposed; and
  - (b) Stating the last date on which the Commission will receive written objections to the proposed boundaries or any of them and to the proposed names or any of them and to the proposed classification (if any) (which date shall be not less than one month after the date of the publication of the notice in the *Gazette*).
- (1A) The boundaries fixed by the Commission in respect of the proposed districts shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those proposed boundaries accurately.
- (2) The places stated pursuant to subsection (1)(a) of this section shall include the office of each Registrar of Electors.
- (3) Any failure to comply with subsection (1)(a)(iii) of this section shall not of itself invalidate any decision or proceedings of the Commission.
- (4) Where any objections are received under subsection (1)(b) of this section, the Commission shall publish in the *Gazette* a notice—
- (a) Containing a summary of the objections; and
  - (b) Stating a place or places at which the objections are available for public inspection; and
  - (c) Stating the last date on which the Commission will receive written counter-objections to those objections or any of them (which date shall not be less than 2 weeks after the date of the publication of the notice in the *Gazette*).
- (5) The Commission shall, before coming to a final determination, duly consider any objections lodged under subsection (1)(b) of this section and any counter-objections lodged under subsection (4) of this section.

Compare: 1956 No 107 s 18; 1991 No 68 s 4(1)

Subsection (1) was substituted, as from 17 December 1993, by section 9(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1)(a)(ii) was amended, as from 1 April 2003, by section 4(1) Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54) by substituting the words “Remuneration Authority” for the words “Higher Salaries Commission”.

Subsection (1A) was inserted, as from 17 December 1993, by section 9(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **39 Communications to officials**

- (1) When, after the gazetting, pursuant to section 38 of this Act, of a notice stating places (which shall include the office of each Registrar of Electors) at which the public may inspect, without charge, a description of the boundaries of the proposed districts, the Commission makes a determination relating to the boundaries of any district, the Surveyor-General shall communicate the details of that determination to such public servants directly concerned with the administration of this Act as have been specified by the Commission by name or by position or by the functions they perform.
- (2) Any public servant to whom information is communicated pursuant to subsection (1) of this section shall use that information only for the purposes of this Act.

Compare: 1956 No 107 s 18A; 1985 No 149 s 4; 1991 No 68 s 5

### **40 Report of Commission**

- (1) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to section 35(7) of this Act or, in the case of the meeting called pursuant to section 269(4) of this Act, within 8 months after the date of that meeting,—
  - (a) Report to the Governor-General the names and boundaries of the electoral districts fixed by the Commission; and
  - (b) Publish in the *Gazette* a notice—
    - (i) Stating that the Commission has fixed the names and boundaries of the electoral districts; and
    - (ii) Stating that the names and boundaries of the electoral districts fixed by the Commission are available for public inspection; and
    - (iii) Stating places at which copies of the names and boundaries fixed by the Commission are avail-

able for public inspection without charge (which places shall include the office of each Registrar of Electors).

- (2) The boundaries of the electoral districts fixed by the Commission shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those boundaries accurately.
- (3) From the date of the gazetting of the notice required by subsection (1)(b) of this section, the electoral districts fixed by the report shall be the electoral districts of New Zealand for the purpose of the election of members of Parliament after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of the notice required by subsection (1)(b) of this section in respect of that report.

Compare: 1956 No 107 s 19; 1991 No 68 s 6(1)

#### **41 Report and maps to be laid before House of Representatives**

- (1) A copy of every report of the Commission, together with properly authenticated maps of the electoral districts fixed by the report, shall be presented by the Governor-General to the House of Representatives within 3 sitting days after the date of the receipt thereof if Parliament is then in session, and, if not, then within 3 sitting days after the date of the commencement of the next ensuing session.
- (2) The Minister shall, forthwith after every report of the Commission is presented to the Governor-General, cause to be deposited in the office of the Clerk of the House of Representatives properly authenticated maps of the electoral districts fixed by the report.

Compare: 1956 No 107 s 20; 1991 No 68 s 7

Subsection (1) was amended, as from 6 December 1995, by section 10 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “3 sitting days” for the words “28 days”.

#### **42 Indexes of streets and places**

- (1) The Surveyor-General—

- (a) Shall, as soon as practicable after the gazetting of a notice under section 40(1)(b) of this Act, compile, in respect of each electoral district, an index of streets and places within that district; and
  - (b) Shall compile from time to time, a comprehensive index which shall contain the names of all streets and places in New Zealand and which shall show the electoral district or electoral districts in which each street or place is to be found.
- (2) At the office of each Registrar and at such other convenient places within each district as the Minister from time to time directs, there shall be kept, for inspection by the public,—
- (a) A copy of the index compiled in respect of that district under subsection (1)(a) of this section; and
  - (b) A copy of the index compiled under subsection (1)(b) of this section.
- (3) Copies of each index compiled under subsection (1)(a) of this section shall be sold by the department within the meaning of section 2 of the Survey Act 1986.
- (4) Copies of each index compiled under subsection (1)(b) of this section in respect of an electoral district shall be sold at every office of the department within the meaning of section 2 of the Survey Act 1986 and at such other convenient places as the Chief Electoral Officer from time to time directs.

Compare: 1956 No 107 s 20A; 1981 No 120 s 7(1); 1989 No 142 s 22(1); 1991 No 68 s 8

Subsection (3) was amended, as from 1 July 1996, by section 5 Survey Amendment Act 1996 (1996 No 55) by substituting the words “department within the meaning of section 2 of the Survey Act 1986” for the words “Department of Survey and Land Information”.

Subsection (4) was amended, as from 1 July 1996, by section 5 Survey Amendment Act 1996 (1996 No 55) by substituting the words “department within the meaning of section 2 of the Survey Act 1986” for the words “Department of Survey and Land Information”.

### **43 Proceedings of Commission**

- (1) Any 4 members of the Commission, of whom 2 are the members holding office under section 28(2)(e) of this Act, shall be a quorum, and may exercise all functions vested in the Commission.

- (2) The Commission may make such rules for the conduct of its business, not inconsistent with the provisions of this Act, as it thinks fit.

Compare: 1956 No 107 s 21; 1991 No 68 s 9

#### **44 Commissioner not eligible as member of House of Representatives**

No member of the Commission shall, within 2 years after he or she ceases to be a member, be capable of being elected to be a member of the House of Representatives.

Compare: 1956 No 107 s 22

#### *Maori representation*

#### **45 Maori representation**

- (1) It shall be the duty of the Commission, for the purpose of the representation of the Maori people in the House of Representatives, to divide New Zealand into Maori electoral districts from time to time in accordance with this section and section 269 of this Act.
- (2) The Commission—
- (a) Shall effect the first division under subsection (1) of this section as soon as practicable after the commencement of this section; and
  - (b) Shall, in accordance with section 77(5) of this Act, effect the second division under subsection (1) of this section after the census taken in the year 1996; and
  - (c) Shall effect each subsequent division under subsection (1) of this section only after each subsequent periodical census and on no other occasion.
- (3) Subject to section 269 of this Act, each division effected under subsection (1) of this section shall be effected on the following basis:
- (a) The Maori electoral population of New Zealand shall be divided by the quota for General electoral districts in the South Island determined pursuant to section 35(3)(b) of this Act, and the quotient so obtained shall be the number of Maori electoral districts:

- (b) Where the quotient includes a fraction, the fraction shall be disregarded unless it exceeds a half, in which case the number of Maori electoral districts shall be the next whole number above the quotient:
  - (c) Subject to subsection (7) of this section, the Maori electoral districts shall each contain an equal number of members of the Maori electoral population.
- (4) Upon receipt of the report of the Government Statistician under section 35(6) of this Act, the Surveyor-General shall prepare maps showing the distribution of the Maori electoral population and provisional boundaries for the Maori electoral districts.
- (5) The report so made by the Government Statistician and the maps so prepared by the Surveyor-General shall be sufficient evidence as to the Maori electoral population.
- (6) In dividing the Maori electoral population equally between the Maori electoral districts, due consideration shall be given to—
  - (a) The existing boundaries of the Maori electoral districts; and
  - (b) Community of interest among the Maori people generally and members of Maori tribes; and
  - (c) Facilities of communications; and
  - (d) Topographical features; and
  - (e) Any projected variation in the Maori electoral population of those districts during their life.
- (7) Where, in the opinion of the Commission, the Maori electoral population cannot, consistently with the considerations provided for in subsection (6) of this section, be divided equally between the Maori electoral districts, the Commission may for any district make an allowance by way of addition or subtraction of Maori electoral population to an extent not exceeding 5 percent.
- (8) Due notice of the issuing of the proposed names and boundaries of the Maori electoral districts shall be given in the *Gazette* and section 38 of this Act, with all necessary modifications, shall apply accordingly.
- (9) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to

section 35(7) of this Act or, in the case of the meeting called pursuant to section 269(4) of this Act, within 8 months after the date of that meeting,—

- (a) Report to the Governor-General the names and boundaries of the Maori electoral districts fixed by the Commission; and
  - (b) Publish in the *Gazette* a notice—
    - (i) Stating that the Commission has fixed the names and boundaries of the Maori electoral districts; and
    - (ii) Stating that the names and boundaries of the Maori electoral districts fixed by the Commission are available for public inspection; and
    - (iii) Stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge (which places shall include the office of each Registrar of Electors).
- (10) The boundaries fixed by the Commission in respect of the Maori electoral districts shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those boundaries accurately.
- (11) From the date of the gazetting of the notice required by subsection (9)(b) of this section, the boundaries of the Maori electoral districts as fixed by the report shall be the boundaries of the Maori electoral districts for the purpose of the election of members of Parliament for those districts after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of that notice required by subsection (9)(b) of this section in respect of that report.
- (12) Notwithstanding the foregoing provisions of this section or of any other provision of this Act,—
- (a) If on the application of paragraphs (a) and (b) of subsection (3) of this section a quotient is obtained that does not require the division of New Zealand into a Maori electoral district or districts, New Zealand shall not be divided into a Maori electoral district or districts and the

- other provisions of this Act shall, so far as they are applicable, apply with any necessary modifications; and
- (b) If on the application of paragraphs (a) and (b) of subsection (3) of this section a quotient is obtained that requires the division of New Zealand into one Maori electoral district, the foregoing provisions of this section and the other provisions of this Act shall, so far as they are applicable, apply with any necessary modifications.

Compare: 1956 No 107 s 23; 1981 No 120 s 8(1); 1991 No 68 s 10

Subsections (8) and (9) were substituted, as from 17 December 1993, by section 11(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

### *Chatham Islands*

#### **46 Electoral districts for and polling in Chatham Islands**

- (1) The area comprised in the Chatham Islands shall be included in such General electoral district and Maori electoral district as the Representation Commission thinks fit, after giving due consideration to the matters contained in sections 35(3)(f) and 45(6) of this Act.
- (2) For the purposes of sections 35, 45, and 269 of this Act, the General electoral population and Maori electoral population of the Chatham Islands shall be treated—
- (a) As part of the General electoral population and Maori electoral population of New Zealand; and
- (b) As part of the General electoral population or Maori electoral population, as the case may require, of the General electoral district or Maori electoral district within which the Chatham Islands are included; and
- (c) In the case of the General electoral population, as part of the General electoral population of the South Island and, in the case of the Maori electoral population, as part of the Maori electoral population of the North Island.
- (3) In any case where the Commission has determined the number of General electoral districts in both the North Island and the South Island, and has, in doing so, applied the provisions of subsection (2)(c) of this section,—
- (a) The Commission shall not be precluded from including the Chatham Islands in a General electoral district or

Maori electoral district, as the case may require, that is located, either in whole or in part, in a different Island to that in which the General electoral population or the Maori electoral population of the Chatham Islands has been included pursuant to subsection (2)(c) of this section; and

- (b) The Commission shall not, by reason of the application of paragraph (a) of this subsection, reconsider its determination of the number of General electoral districts in either the North Island or the South Island.

Compare: 1956 No 107 s 24(1)

#### *Qualifications of candidates and members*

#### **47 Registered electors may be members, unless disqualified**

- (1) Subject to the provisions of this Act, every person who is registered as an elector of an electoral district, but no other person, is qualified to be a candidate and to be elected a member of Parliament, whether for that electoral district, any other electoral district or as a consequence of the inclusion of that person's name in a party list submitted pursuant to section 127 of this Act.
- (2) Notwithstanding anything in subsection (1) of this section, if a person is disqualified for registration as an elector, that person shall not be qualified to be a candidate or to be elected.
- (3) Regardless of anything in subsection (1), a person is not qualified to be a candidate or to be elected unless he or she is a New Zealand citizen.

Compare: 1956 No 107 s 25; 1981 No 120 s 9(1)

Subsection (3) was substituted, as from 1 February 2003, by section 8(1) Electoral Amendment Act 2002 (2002 No 1). See section 8(2) and 8(3) of that Act for transitional provisions.

#### **48 Offence for public servant to sit**

Every member of Parliament who sits or votes therein after his or her seat has become vacant by reason of that member having become a public servant, knowing that his or her seat is so vacant, shall be liable on summary conviction to a fine not exceeding \$400.

Compare: 1956, No 107; s 26; 1990 No 1 s 3(1)

**49 Removal of name from roll without cause**

Any person duly qualified as an elector who has been registered on any electoral roll but whose name has become removed from that roll through no fault of his or her own shall not, by reason only of not being registered as an elector, be disqualified from becoming a candidate and being elected for any electoral district; but in every such case any such person shall forward to the Returning Officer, at the time when that person sends his or her consent to be nominated, a statutory declaration to the effect that he or she is not disqualified as an elector for the district in respect of which he or she was previously registered under the provisions of this Act or any other Act, that he or she still retains that qualification, and that his or her name has been removed from the roll of that district through no fault of his or her own.

Compare: 1956 No 107 s 27

**50 Effect of registration on wrong roll**

The nomination of any person as a candidate for election, or his or her election as a member of Parliament, shall not be questioned on the ground that, though entitled to be registered as an elector of any district, that person was not in fact registered as an elector of that district but was registered as an elector of some other district.

Compare: 1956 No 107 s 28

**51 Member ceasing to be elector**

A member of Parliament ceasing to be registered as an elector shall not from that cause only be disqualified from sitting as a member.

Compare: 1956 No 107 s 29

**52 Candidacy and election of State servants**

(1) In this section, the term **State servant**—

(a) Means—

- (i) A public servant; and
- (ii) Any other person whose conditions of employment are prescribed under, or are required by any enactment to be prescribed in accordance with or

having regard to provisions of, the State Sector Act 1988; and

- (b) Includes members of the New Zealand Police.
- (2) Any State servant who desires to become a candidate for election as a member of Parliament shall be placed on leave of absence for the purposes of his or her candidature.
- (3) Subject to subsection (4) of this section, the period of leave shall commence on nomination day, and, in the event of his or her nomination as a constituency candidate or of the inclusion of his or her name in a list submitted under section 127 of this Act, shall continue until the first working day after polling day, unless, in any case where he or she is a constituency candidate, he or she withdraws his or her nomination.
- (4) Where the employer of any State servant is satisfied that the State servant desires to become a candidate and that the candidacy will materially affect the ability of that State servant—
  - (a) To carry out satisfactorily his or her duties as a State servant; or
  - (b) To be seen as independent in relation to particular duties,—the period of leave shall, if the employer so determines after consultation with the State servant, commence before nomination day on a day appointed by the employer.
- (5) During the period of his or her leave, the State servant shall not be required or permitted to carry out any of his or her official duties, nor shall he or she be entitled to receive any salary or other remuneration as a State servant in respect of that period or any part thereof, except to the extent to which he or she takes during that period any leave with pay to which he or she is entitled:

Provided that a candidate who, at the time of his or her nomination or of the inclusion of his or her name in a list submitted under section 127 of this Act, is a member of the staff of a university or a university college or a technical institute or a community college or a teachers college may continue to teach or supervise the studies of students at that university or university college or technical institute or community college or teachers college who are preparing for an examination and may engage in marking the examination papers of such students, and may

receive remuneration in respect of such teaching, supervision, and marking.

- (6) Except as provided in the foregoing provisions of this section, a candidate's rights as a State servant shall not be affected by his or her candidature.

Compare: 1956 No 107 s 30; 1981 No 120 s 10(1); 1988 No 20 s 90(a)

### **53 Members disqualified from being State servants**

- (1) In this section, the term **State servant** has the meaning given to it by section 52(1) of this Act.
- (2) If any State servant is elected as a member of Parliament, he or she shall forthwith on being declared so elected, be deemed, subject to subsections (3) to (6) of this section, to have vacated his or her office as a State servant.
- (3) Where a person who has been declared elected as the result of a poll is not the person declared elected on an amended declaration of the result of that poll or where, at the conclusion of the trial of an election petition, the High Court or Court of Appeal determines that the person whose election or return was complained of was not duly elected or returned or that the election at which that person was elected or returned was void, that person,—
- (a) If he or she was a State servant when he or she was declared to be elected; and
- (b) If by written election, given to his or her former employer within one month after the amended declaration or the determination of the High Court or Court of Appeal, he or she elects to be reinstated in his or her former office as a State servant,—
- he or she shall, on the date on which his or her election is so given to his or her employer, be deemed, subject to subsections (4) to (6) of this section, to have been reinstated in his or her office as a State servant.
- (4) Nothing in this section shall entitle any person who is reinstated in office as a State servant to receive any salary or other remuneration as a State servant in respect of the period or any part of the period beginning on the day after the date on which he or she vacated office under subsection (2) of this section

and ending with the day before the date on which he or she resumed office under subsection (3) of this section.

- (5) Where the position that the person held at the date on which he or she vacated office has been filled or where that position no longer exists, that person shall, on his or her reinstatement, be employed, where practicable and at the discretion of his or her employer, in a position that involves duties and responsibilities which are the same or substantially the same as those of the position held at the time of vacation of office.
- (6) Subject to subsection (4) of this section, where a person is reinstated in office under this section,—
- (a) His or her service, for the purpose of any rights and benefits that are conditional on unbroken service, shall not be broken by the period of vacation of office; and
- (b) The period of vacation of office shall count—
- (i) As time served under his or her contract of employment; and
- (ii) Subject to payment of his or her contributions, as service for the purpose of any superannuation scheme to which he or she belongs in his or her capacity as a State servant.

Compare: 1956 No 107 s 31; 1981 No 120 s 11(1)

### *Term of office of member of Parliament*

#### **54 Term of office of member of Parliament**

- (1) Where an election is held for any electoral district, the person whose name is endorsed on the writ issued for the election as the person declared to be elected shall, subject to this Act,—
- (a) Come into office as the member of Parliament for that electoral district on the day after the day of the return of that writ; and
- (b) Vacate that office at the close of polling day at the next general election.
- (2) Where any person whose name is entered on a party list submitted pursuant to section 127 of this Act, is declared by the Chief Electoral Officer to be elected as a member of Parliament, the person shall, subject to this Act,—

- (a) Come into office on the date after the date of the return made by the Chief Electoral Officer pursuant to section 193 of this Act; and
- (b) Vacate that office at the close of polling day at the next general election.

Compare: 1956 No 107 s 31A; 1986 No 116 s 3

### *Vacancies*

#### **55 How vacancies created**

- (1) The seat of any member of Parliament shall become vacant—
  - (a) If, otherwise than by virtue of being a head of mission or head of post within the meaning of the Foreign Affairs Act 1988, for one whole session of Parliament he or she fails, without permission of the House of Representatives, to give his or her attendance in the House; or
  - (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
  - (c) If he or she does or concurs in or adopts any act whereby he or she may become 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; or
  - (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
  - (d) If he or she is convicted of a crime punishable by imprisonment for a term of 2 years or upwards, or is convicted

- of a corrupt practice, or is reported by the High Court in its report on the trial of an election petition to have been proved guilty of a corrupt practice; or
- (e) If he or she becomes a public servant; or
  - (f) if he or she resigns his or her seat by signing a written notice that is addressed and delivered to the Speaker; or
  - (g) If on an election petition the High Court or Court of Appeal declares his or her election void; or
  - (h) If he or she dies; or
  - (i) If he or she becomes mentally disordered, as provided in section 56 of this Act; or
  - (j)
- (2) Notwithstanding anything in subsection (1)(c) of this section, where a member of Parliament marries a person who is a subject or citizen of a foreign State or Power and the laws of that foreign State or Power confer on that member of Parliament by reason of that marriage, citizenship of that foreign State or Power or the rights, privileges, or immunities of a subject or citizen of that foreign State or Power, the seat of a member of Parliament shall not become vacant by reason only of the marriage.

Compare: 1956 No 107 s 32; 1975 No 28 s 13(1); 1981 No 120 s 12; 1988 No 34 s 12(3); 1988 No 159 s 14(1)

Subsection (1)(b) was substituted, as from 18 September 2005, by section 5(1) Electoral Amendment Act 2004 (2004 No 99).

Subsection (1)(ca) and (cb) were inserted, as from 18 September 2005, by section 5(2) Electoral Amendment Act 2004 (2004 No 99).

Subsection (1)(f) was substituted, as from 28 February 2002, by section 9(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (1)(j) was repealed, as from 28 February 2002, by section 9(2) Electoral Amendment Act 2002 (2002 No 1).

### **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

ities 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.

Section 55AA was inserted, as from 18 September 2005, by section 6 Electoral Amendment Act 2004 (2004 No 99).

**55A Member ceasing to be parliamentary member of political party**

*[Expired]*

Sections 55A to 55E were inserted, as from 22 December 2001, by section 5 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

Sections 55A to 55E expired, as from the close of 17 September 2005, pursuant to section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

**55B Notice from member**

*[Expired]*

Sections 55A to 55E were inserted, as from 22 December 2001, by section 5 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

Sections 55A to 55E expired, as from the close of 17 September 2005, pursuant to section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

**55C Notice from parliamentary leader of party**

*[Expired]*

Sections 55A to 55E were inserted, as from 22 December 2001, by section 5 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

Sections 55A to 55E expired, as from the close of 17 September 2005, pursuant to section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

**55D Form of statement to be made by parliamentary leader**

*[Expired]*

Sections 55A to 55E were inserted, as from 22 December 2001, by section 5 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

Sections 55A to 55E expired, as from the close of 17 September 2005, pursuant to section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

**55E Definitions**

*[Expired]*

Sections 55A to 55E were inserted, as from 22 December 2001, by section 5 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

Section 55E was amended, as from 7 December 2004, by section 7 Electoral Amendment Act 2004 (2004 No 99) by substituting the definition “appropriate person”.

Sections 55A to 55E expired, as from the close of 17 September 2005, pursuant to section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105).

**56 Member becoming mentally disordered**

- (1) Where a member of Parliament is, or is deemed to be, subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, the Court by which the order is made shall, as soon as may be, give a notice to the Speaker of the making of the order.
- (2) Where a member of Parliament is received or detained in a hospital in accordance with an inpatient order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, the person in charge of that hospital shall, as soon as may be, give notice to the Speaker of the reception or detention.
- (3) Where the Speaker receives a notice under subsection (1) or subsection (2) of this section, the Speaker shall forthwith transmit the notice to the Director-General of Health, who, together with some medical practitioner named by the Speaker, shall without delay visit and examine the member to whom the notice relates, and shall report to the Speaker whether the member is mentally disordered.
- (4) If the report is to the effect that the member is mentally disordered the Speaker shall, at the expiration of 6 months from the date of the report if Parliament is then in session, and, if not, then as soon as may be after the date of the commencement of the next ensuing session, require the said Director-General, together with the said medical practitioner or some other medical practitioner named by the Speaker, again to visit and examine the member; and, if they report that he or she is still mentally disordered, the Speaker shall forthwith lay both reports before the House of Representatives, and thereupon the seat of the member shall be vacant.

- (5) Every person having charge of any hospital in which any member of Parliament is so received or detained, who wilfully commits a breach of subsection (2) of this section shall be liable on summary conviction to a fine not exceeding \$2,000.

Compare: 1956 No 107 s 33; 1990 No 1 s 4(1)

Subsections (3) and (4) were amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

**57 Registrar of court to notify cause of vacancy in certain cases**

- (1) The Registrar of the Court in which any member of Parliament has been convicted of a crime punishable by imprisonment for a term of 2 years or upwards, or has been convicted of a corrupt practice, shall, within 48 hours after the conviction, notify the fact to the Speaker.
- (2) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$100 who, being the Registrar of a Court, fails to send any notice required by subsection (1) of this section.

Compare: 1956 No 107 s 34; 1975 No 28 s 12(e); 1990 No 1 s 5(1)

Subsection (1) was amended, as from 28 February 2002, by section 10 Electoral Amendment Act 2002 (2002 No 1) by omitting the words “, or to the Governor-General if there is no Speaker or if the Speaker is absent from New Zealand or if the member so convicted is the Speaker”.

**58 Registrar of Births and Deaths to notify Speaker of death of member**

- (1) The Registrar of Births and Deaths by whom the death of any member of Parliament is registered shall, within 12 hours of making the registration, notify the fact to the Speaker.
- (2) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$100 who, being a Registrar of Births and Deaths, fails to send any notice required by subsection (1) of this section.

Compare: 1956 No 107 s 35; 1990 No 1 s 5(1)

Subsection (1) was amended, as from 28 February 2002, by section 11 Electoral Amendment Act 2002 (2002 No 1) by omitting the words “, or to the Governor-General if there is no Speaker or if the Speaker is absent from New Zealand”.

**59 No person to be candidate for more than one district or on more than one list**

- (1) No person shall at any general election be—
- (a) A candidate for more than one electoral district; or
  - (b) A candidate whose name is included on more than one party list submitted pursuant to section 127 of this Act.
- (2) If 2 or more by-elections are held on the same polling day, no person shall be a candidate at more than one of those by-elections.
- (3) At any general election, any person may be both—
- (a) A candidate for any one electoral district; and
  - (b) A candidate whose name is included on any one party list submitted pursuant to section 127 of this Act.
- (4) If any person breaches subsection (1) or subsection (2) of this section, all nominations of that person as a candidate for those districts, party lists, or by-elections, as the case may be, shall be void, and any deposits made by him or her or on his or her behalf shall be forfeited and be paid into the Crown Bank Account.

Compare: 1956 No 107 s 36; 1975 No 28 s 14

Section 59 was substituted, as from 6 December 1995, by section 12 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was amended, as from 28 February 2002, by section 12 Electoral Amendment Act 2002 (2002 No 1) by inserting after the words “him or her”, the words “or on his or her behalf”.

*Persons qualified to vote***60 Who may vote**

Subject to the provisions of this Act, the following persons, and no others, shall be qualified to vote at any election in any district, namely,—

- (a) Any person whose name lawfully appears on the main roll or any supplementary roll for the district and who is qualified to be registered as an elector of the district:
- (b) Any person—
  - (i) Who is qualified to be registered as an elector of the district; and

- (ii) Who is registered as an elector of the district as a result of having applied for registration as an elector of the district before polling day:
- (c) Any person who is qualified to be registered as an elector of the district, and was at the time of the last preceding election duly registered as an elector of the district or, where a change of boundaries has intervened, of some other district in which his or her then place of residence within the first-mentioned district was then situated:
- (d) Any person—
  - (i) Who is qualified to be registered as an elector of the district; and
  - (ii) Who is registered as an elector of the district as a result of having applied, since the last preceding election and before polling day, for registration as an elector of the district or, where a change of boundaries has intervened, of some other district in which that person's then place of residence within the first-mentioned district was then situated:
- (e) Any person who is qualified to be registered as an elector of the district pursuant to section 74 of this Act and who resides on Campbell Island or Raoul Island or has resided on either of those Islands at any time in the one month before polling day:
- (f) Any member of the Defence Force who is outside New Zealand, if he or she is or will be of or over the age of 18 years on polling day, and his or her place of residence immediately before he or she last left New Zealand is within the district.

Compare: 1956 No 107 s 99; 1981 No 120 s 31; 1983 No 104 s 18; 1985 No 150 s 2(4); 1990 No 1 s 49(1), (2)

Paragraphs (a) to (d) were substituted, as from 6 December 1995, by section 13(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Paragraph (f) was amended, as from 6 December 1995, by section 13(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words "Defence Force" for the words "Armed Forces".

**61 Special voters**

- (1) A person who is qualified to vote at any election in any district may vote as a special voter if—
- (a) That person's name does not appear on the main roll or any supplementary roll for the district or has been wrongly deleted from any such roll:
  - (b) The person intends to be absent or is absent from the district on polling day:
  - (c) The person intends to be outside New Zealand on polling day or is outside New Zealand on polling day:
  - (d) The person is, by reason of illness, infirmity, pregnancy, or recent childbirth, unable to attend to vote at any polling place in the district:
  - (e) The person is, by reason of a religious objection, unable to attend to vote on the day of the week on which polling day falls:
  - (f) The person satisfies the Returning Officer or issuing officer that on any other ground it will not be practicable for that person to vote at a polling place in the district without incurring hardship or serious inconvenience.
- (2) A person who is registered as an elector of a Maori electoral district and who is qualified to vote at any election in that district may vote as a special voter not only on the grounds set out in subsection (1) of this section but also on the ground that the person attends to vote on polling day at a polling place that is not a polling place for that district.

Compare: 1956 No 107 s 100; 1990 No 1 s 50(1)

Subsection (1)(f) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words "issuing officer" for the words "Deputy Returning Officer".

## **Part 4**

### **Registration of political parties and party logos**

This heading was amended, as from 6 December 1995, by section 14 Electoral Amendment Act (No 2) 1995 (1995 No 61) by inserting the words "and party logos".

**62 Register of Political Parties**

- (1) Subject to this Part of this Act, an eligible political party may be registered for the purposes of this Act.
- (2) The Electoral Commission shall establish and maintain a Register, to be known as the Register of Political Parties, containing a list of the political parties registered under this Part of this Act.

**63 Application for registration**

- (1) An application for the registration of an eligible political party may be made to the Electoral Commission—
  - (a) By the Secretary of the party; or
  - (b) By any member of Parliament who is a current financial member of that party.
- (2) An application for the registration of an eligible political party—
  - (a) Shall be in writing; and
  - (b) Shall be signed by the applicant; and
  - (c) must—
    - (i) set out the name of the party; and
    - (ii) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name, set out the name of that abbreviation; and
    - (iii) set out the name and address of the applicant and the capacity in which he or she makes the application; and
    - (iv) if the applicant is not the secretary of the party, set out the name and address of the secretary of the party; and
    - (v) set out the name and address of the person, being a person who is eligible for appointment under section 214D, who is to be appointed as the auditor of the party, and be accompanied by that person's signed consent to the appointment; and
    - (vi) be accompanied by evidence, in a form approved by the Electoral Commission, that the party has at least 500 current financial members who are eligible to enrol as electors; and

- (vii) be accompanied by a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957 that the party has at least 500 current financial members who are eligible to enrol as electors; and
  - (ca) must be accompanied by a declaration made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must state that the party intends, at general elections,—
    - (i) to submit a list of candidates under section 127; or
    - (ii) to have 1 or more constituency candidates stand for the party or for a related political party; or
    - (iii) both; and
  - (d) Shall be accompanied by a declaration made by the Secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration shall—
    - (i) State whether the party is a party in respect of which there are one or more component parties; and
    - (ii) Where the party has one or more component parties, state the name of each component party.
- (3) Upon receipt of an application for the registration of a political party, the Electoral Commission shall deal with the application in accordance with this Part of this Act and determine whether the party can be registered.
- (4) Notwithstanding subsection (3) of this section, the Electoral Commission shall not be obliged to deal with any application for registration if it receives notice in writing withdrawing the application from a person entitled to apply for the registration of that party and the Electoral Commission is satisfied that the application is made by that person on behalf of the party.

Subsection (2)(c)(v) was substituted, as from 6 December 1995, by section 15(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2)(c) was substituted, as from 28 February 2002, by section 13(1) Electoral Amendment Act 2002 (2002 No 1). See section 13(2) and section 103 of that Act for transitional provisions.

Subsection (2)(ca) was inserted, as from 28 February 2002, by section 13(1) Electoral Amendment Act 2002 (2002 No 1). *See* section 13(2) of that Act for transitional provisions.

Subsection (2)(d) was inserted, as from 6 December 1995, by section 15(2) Electoral Amendment Act (No 2) 1995 (1995 No 61). *See* section 15(4) and (5) of that Act as to applications prior to the commencement of this paragraph.

Subsection (4) was inserted, as from 6 December 1995, by section 15(3) Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **63A Application for registration of party logo**

- (1) An application for the registration for the purposes of this Act of a party logo of a political party may be made to the Electoral Commission—
  - (a) By the Secretary of the party; or
  - (b) By any member of Parliament who is a current financial member of that party.
- (2) An application for the registration for the purposes of this Act of the logo of a political party—
  - (a) Shall be in writing; and
  - (b) Shall be signed by the applicant; and
  - (c) Shall be accompanied—
    - (i) By two identical representations of the party logo, which representations shall be in a form satisfactory to the Electoral Commission and shall show the parts of the logo that are to be in colour and the PMS (Pantone Matching System) colours that are to be used for those parts when the logo is reproduced on the ballot paper; and
    - (ii) By a black and white reproduction of the party logo, which reproduction shall be in a form satisfactory to the Electoral Commission; and
  - (d) Shall be accompanied by a declaration, made by the applicant in the manner prescribed by section 9 of the Oaths and Declarations Act 1957, that the use of that logo by that political party will not be an infringement of an intellectual property right of any person or a breach of any enactment; and
  - (da) if the application is made by a political party that is not registered under this Part, must be accompanied by a declaration made by the secretary of the party

in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must state that the party intends, at general elections, to have 1 or more constituency candidates stand for the party or for a related political party; and

- (e) Shall—
- (i) Set out the name and address of the applicant and the capacity in which he or she makes the application; and
  - (ii) Where the applicant is not the Secretary of the party, set out the name and address of the Secretary of the party.
- (3) Upon receipt of an application for registration of a party logo, the Electoral Commission shall deal with the application in accordance with this Part of this Act and determine whether the party logo can be registered.
- (4) Notwithstanding subsection (3) of this section, the Electoral Commission shall not be obliged to deal with any application for registration of a party logo if it receives notice in writing withdrawing the application from a person entitled to apply for the registration of that party logo and the Electoral Commission is satisfied that the application is made by that person on behalf of the party.

Section 63A was inserted, as from 6 December 1995, by section 16 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2)(c)(ii) was amended, as from 28 February 2002, by section 14(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “by 2 copies of” for the word “By”. *See* section 103 of that Act for a transitional provision relating to pending applications for registration of political parties and party logos.

Subsection (2)(da) was inserted, as from 28 February 2002, by section 14(2) Electoral Amendment Act 2002 (2002 No 1). *See* section 103 of that Act for a transitional provision relating to pending applications for registration of political parties and party logos.

#### **64 Times when registration prohibited**

- (1) At no time in the period that, in relation to a general election,—
- (a) Commences on the date beginning with the issue of the writ for the election of members of Parliament for all electoral districts within New Zealand; and

- (b) Ends with the day appointed as the latest day for the return of the writ containing the names of constituency candidates who are elected,—  
shall action be taken in relation to any application for the registration of a political party or any application for the registration of the logo of a political party.
- (2) At no time in the period that, in relation to a by-election,—
- (a) Commences on the date beginning with the issue of the writ for the by-election; and
- (b) Ends with the day appointed as the latest day for the return of the writ for the by-election,—  
shall action be taken in relation to any application for the registration of the logo of a political party.

Section 64 was substituted, as from 6 December 1995, by section 17 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “the writ” for the word “writs” in both places where it appears.

## **65 Parties with certain names not to be registered**

The Electoral Commission shall refuse an application for the registration of a political party if, in its opinion, the name of the party or any proposed abbreviation—

- (a) Is indecent or offensive; or
- (b) Is excessively long; or
- (c) Is likely to cause confusion or mislead electors; or
- (d) Contains any reference to a title or honour or similar form of identification.

## **65A Certain logos not to be registered**

The Electoral Commission shall refuse an application for the registration of the logo of a political party—

- (a) If the application is not accompanied by both the representations and the black and white reproduction required by section 63A(2)(c) of this Act or by the declaration required by section 63A(2)(d) of this Act; or
- (b) If the Electoral Commission has reasonable cause to believe that the declaration supplied under section 63A(2)(d) of this Act is not correct; or

- (c) If, in the opinion of the Electoral Commission, the logo submitted by the party—
  - (i) Is indecent or offensive; or
  - (ii) Is likely to cause confusion or mislead electors; or
  - or
  - (iii) Contains any reference to a title or honour or similar form of identification; or
- (d) If the application for registration of a party logo is made by a political party that is not registered under Part 4 of this Act and the Electoral Commission has reasonable cause to believe that the name of the political party would, if submitted by a candidate for inclusion on the ballot paper, be likely to be rejected by a Returning Officer under section 151(2) of this Act.

Section 65A was inserted, as from 6 December 1995, by section 18 Electoral Amendment Act (No 2) 1995 (1995 No 61).

## **66 Other grounds on which registration may be refused**

- (1) The Electoral Commission shall refuse an application for the registration of a political party if—
  - (a) The application does not comply with section 63 of this Act; or
  - (b) If it is satisfied that the party does not have 500 current financial members who are eligible to enrol as electors.
- (2) Unless section 65 of this Act or subsection (1) of this section applies, the Electoral Commission shall, subject to section 64 of this Act, register the political party that is the subject of the application.
- (3)

Subsection (1)(b) was substituted, as from 6 December 1995, by section 19 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (3) was repealed, as from 28 February 2002, by section 15 Electoral Amendment Act 2002 (2002 No 1).

## **67 Registration**

- (1) Where the Electoral Commission determines that a political party should be registered, the Electoral Commission shall—
  - (a) Register the party by entering in the register—
    - (i) The name of the party; and

- (ii) If an abbreviation of the name of the party was set out in the application, that abbreviation; and
    - (iii) The names of any separate political parties that are component parties of the party; and
  - (b) Give written notice to the applicant that the Electoral Commission has registered the party; and
  - (c) Cause notice of the registration of the party, including details of any component parties of the party, to be published in the *Gazette*; and
  - (d) Forward to the Chief Electoral Officer written notice of the registration of the party, which notice shall include details of any component parties of the party.
- (2) Where the Electoral Commission determines that an application for the registration of a political party should be refused, the Commission shall, as soon as reasonably practicable, and in any case not later than 10 working days after the date of the determination, give the applicant written notice that the Commission has refused the application, setting out the reasons for the refusal.
- (3) It shall be the duty of the Secretary of any political party registered under this Act—
- (a) To supply the Electoral Commission with an address for service of all correspondence under this Part of this Act; and
  - (b) To notify the Electoral Commission of any changes in the address for service of correspondence; and
  - (c) To notify the Electoral Commission whenever a new Secretary of the party is appointed; and
  - (d) To notify the Electoral Commission if the number of current financial members of the party who are eligible to enrol as electors falls below 500; and
  - (e) Subject to subsection (4) of this section, to notify the Electoral Commission by way of a declaration in the manner provided by section 9 of the Oaths and Declarations Act 1957 whenever there is any change in the details recorded in the Register of Political Parties in respect of the party under subsection (1)(a)(iii) of this section; and

- (f) to notify the Electoral Commission whenever the party changes the auditor of the party by appointing another person, being a person who is eligible for appointment under section 214D, as the auditor of the party, and to provide the Electoral Commission with the name and address of that person, and that person's signed consent to the appointment.
- (4) Where changes in the description of component parties are notified to the Chief Electoral Officer under section 127(3A) or section 128A of this Act, it shall not be necessary for the Secretary of the party also to notify those changes to the Electoral Commission in accordance with subsection (3)(e) of this section.

Section 67 was substituted, and section 67A was inserted, as from 6 December 1995, by section 20 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (3)(e) was amended, as from 28 February 2002, by section 16 Electoral Amendment Act 2002 (2002 No 1) by adding the word “; and”.

Subsection (3)(f) was inserted, as from 28 February 2002, by section 16 Electoral Amendment Act 2002 (2002 No 1).

#### **67A Registration of party logos**

- (1) Where the Electoral Commission determines that the logo of a political party should be registered, the Electoral Commission shall—
- (a) Register the logo of the political party by recording the fact that the logo of the political party is registered with the Electoral Commission; and
  - (b) Give written notice to the applicant that the Electoral Commission has registered the logo of the political party; and
  - (c) Cause notice of the registration of the logo of the political party to be published in the *Gazette*; and
  - (d) Give written notice to the Chief Electoral Officer that the Electoral Commission has registered the logo of the political party; and
  - (e) Provide to the Chief Electoral Officer from time to time at his or her request such copies of the logo and such information with regard to the logo as the Chief Electoral Officer requires for the purpose of showing the logo on ballot papers.

- (2) Where the Electoral Commission registers the logo of a political party that is registered under this Act, the registration of the logo shall be recorded in the Register of Political Parties, established under section 62(2) of this Act.
- (3) Where the Electoral Commission determines that an application for the registration of the logo of a political party should be refused, the Commission shall, as soon as reasonably practicable, and in any case not later than 10 working days after the date of the determination, give the applicant written notice that the Commission has refused the application, setting out the reasons for the refusal.
- (4) It shall be the duty of the Secretary of any political party that has a logo registered under this Act—
  - (a) To supply the Electoral Commission with an address for service of all correspondence under this Part of this Act; and
  - (b) To notify the Electoral Commission of any changes in the address for service of correspondence; and
  - (c) To notify the Electoral Commission whenever a new Secretary of the party is appointed.

Section 67 was substituted, and section 67A was inserted, as from 6 December 1995, by section 20 Electoral Amendment Act (No 2) 1995 (1995 No 61).

## **68 Inspection of Register**

Members of the public shall be entitled to inspect the Register of Political Parties without payment at any time between 9.00 am and 4.00 pm on any day on which the office of the Electoral Commission is open.

## **68A Inspection of party logos**

- (1) The Electoral Commission shall hold, at the office of the Commission, a copy of every political party logo that has been registered by the Commission.
- (2) Members of the public shall be entitled, at any time between 9.00am and 4.00pm, on any day on which the office of the Electoral Commission is open, to inspect without payment any party logo registered by the Electoral Commission.

Section 68A was inserted, as from 6 December 1995, by section 21 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**69 Changes to register**

- (1) Where a political party is registered, any person who would be entitled to make an application for registration on behalf of that party may instead make an application for variation of any of the details contained in the Register, and the provisions of sections 63 to 67 of this Act, with any necessary modifications, shall apply to an application for variation.
- (2) Where the Electoral Commission receives notification under section 67(3)(e) of this Act of any changes to the details recorded in the Register in respect of that party pursuant to section 67(1)(a)(iii) of this Act, that notification shall be deemed to be an application for variation of the details recorded in the Register pursuant to section 67(1)(a)(iii) of this Act, and the provisions of section 63 to 67 of this Act, with any necessary modifications, shall apply accordingly.

Section 69 was substituted, as from 6 December 1995, by section 22 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**69A Changes to party logos**

- (1) Where the logo of a political party is registered under section 67A of this Act, any person who would be entitled to make, on behalf of that party, an application for registration of a party logo may instead make—
  - (a) An application for variation of the form of the logo or for the substitution of a new logo for the registered logo; or
  - (b) On any change in the name of the party, an application that the registration of the logo be amended by substituting for the reference to the former name of the party a reference to the new name of the party.
- (2) The provisions of sections 63A, 64, 65A, and 67A of this Act shall, with any necessary modifications, apply to every application under paragraph (a) or paragraph (b) of subsection (1) of this section.

Section 69A was inserted, as from 6 December 1995, by section 23 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**70 Cancellation of registration**

- (1) The Electoral Commission shall cancel the registration of a political party at the request of one of the persons specified in section 63(1) of this Act if satisfied that the request for cancellation is made by the applicant on behalf of the party.
  - (1A) The provisions of section 64, with any necessary modifications, apply to every request under subsection (1).
  - (2) The Electoral Commission shall cancel the registration of any political party on being satisfied that the number of current financial members of the party who are eligible to enrol as electors has fallen below 500.
    - (2A) For the purposes of exercising the powers conferred on it by subsection (2), the Electoral Commission may require a political party to supply to it a list of the party's current financial members within any reasonable time that the Electoral Commission specifies.
- (3) Where the Electoral Commission cancels the registration of any political party, it shall, as soon as reasonably practicable, and in any event not later than 10 working days after the date of the cancellation,—
  - (a) Give, where the cancellation was effected under subsection (1) of this section, written notice of the cancellation to both the applicant for cancellation and the Secretary of the political party:
  - (b) Give, where the cancellation was effected under subsection (2) of this section, written notice of the cancellation to the Secretary or the last-known Secretary of the political party, which written notice shall set out the reasons for the cancellation:
  - (c) Cause notice of the cancellation to be published in the *Gazette*.

Subsections (1) and (2) were substituted, as from 6 December 1995, by section 24 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1A) was inserted, as from 28 February 2002, by section 17(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (2) was substituted, as from 6 December 1995, by section 24 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2A) was inserted, as from 28 February 2002, by section 17(2) Electoral Amendment Act 2002 (2002 No 1).

**70A Cancellation of registration of party logo**

- (1) The Electoral Commission shall cancel the registration of the logo of a political party at the request of one of the persons specified in section 63A(1) of this Act if satisfied that the request for cancellation is made by the applicant on behalf of the party.
- (1A) The provisions of section 64, with any necessary modifications, apply to every request under subsection (1).
- (2) The Electoral Commission shall cancel the registration of the logo of a political party on being satisfied that the use of the logo by that political party constitutes an infringement of an intellectual property right or a breach of an enactment.
- (3) Where the Electoral Commission cancels the registration of the logo of any political party, it shall, as soon as reasonably practicable, and in any event not later than 10 working days after the date of the cancellation,—
  - (a) Give written notice of the cancellation to—
    - (i) The applicant; and
    - (ii) The Secretary of the political party; and
    - (iii) The Chief Electoral Officer; and
  - (b) Cause notice of the cancellation to be published in the *Gazette*.
- (4) The Electoral Commission shall give, in the written notice of cancellation, the reasons for the cancellation.

Section 70A was inserted, as from 6 December 1995, by section 25 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1A) was inserted, as from 28 February 2002, by section 18 Electoral Amendment Act 2002 (2002 No 1).

**71 Requirement for registered parties to follow democratic procedures in candidate selection**

Every political party that is for the time being registered under this Part of this Act shall ensure that provision is made for participation in the selection of candidates representing the party for election as members of Parliament by—

- (a) Current financial members of the party who are or would be entitled to vote for those candidates at any election; or

- (b) Delegates who have (whether directly or indirectly) in turn been elected or otherwise selected by current financial members of the party; or
- (c) A combination of the persons or classes of persons referred to in paragraphs (a) and (b) of this section.

**71A Obligation to provide annual declaration regarding party**

The secretary of any political party registered under this Act must ensure that the Electoral Commission receives by 30 April in each year a declaration made by the secretary in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must—

- (a) state that the party intends, at general elections,
  - (i) to submit a list of candidates under section 127; or
  - (ii) to have 1 or more constituency candidates stand for the party or for a related political party; or
  - (iii) both; and
- (b) state whether the party has at least 500 current financial members who are eligible to enrol as electors.

Sections 71A and 71B were inserted, as from 28 February 2002, by section 19(1) Electoral Amendment Act 2002 (2002 No 1).

**71B Obligation to provide copy of party membership rules and candidate selection rules**

- (1) The secretary of any political party registered under this Act must supply the Electoral Commission with the following:
  - (a) a copy of the rules governing membership of the party;
  - (b) a copy of the rules governing the selection of persons to represent that party as candidates for election as members of Parliament;
  - (c) a copy of any changes to the rules referred to in paragraph (a) or paragraph (b).
- (2) The copies required by subsection (1)(a) and (b) must be supplied within 1 month after notice of the registration of the party is notified in the *Gazette* in accordance with section 67(1)(c).
- (3) The copies required by subsection (1)(c) must be supplied within 1 month after the date on which the changes to the rules are adopted by the party.

- (4) Members of the public are entitled to inspect the documents supplied to the Electoral Commission under this section. They may inspect them, without payment, at any time between 9.00 am and 4.00 pm on any day on which the office of the Electoral Commission is open.

Sections 71A and 71B were inserted, as from 28 February 2002, by section 19(1) Electoral Amendment Act 2002 (2002 No 1). *See* section 19(2) of that Act as to transitional provisions relating to section 71B.

## Part 5 Registration of electors

### 72 Rules for determining place of residence within New Zealand

- (1) Subject to the provisions of this section, the place where a person resides within New Zealand at any material time or during any material period shall be determined for the purposes of this Act by reference to the facts of the case.
- (2) For the purposes of this Act, a person can reside in one place only.
- (3) A person resides at the place where that person chooses to make his or her home by reason of family or personal relations, or for other domestic or personal reasons.
- (4) Where the property on which a person's home is located is divided between 2 or more electoral districts, that person shall,—
- (a) If his or her dwelling is located wholly within one of those electoral districts, be deemed to reside in that electoral district; or
  - (b) In any other case, be deemed to reside in the electoral district in which is located—
    - (i) The front door or other main entrance of his or her dwelling; or
    - (ii) Where his or her dwelling is an apartment, the front door or other main entrance of the building in which the apartment is situated.
- (5) A person who is detained in any prison or hospital by virtue of any enactment shall not, by reason only of that detention,

be treated for the purpose of subsection (3) of this section as residing there.

- (6) The place where, for the purposes of this Act, a person resides shall not change by reason only of the fact that the person—
- (a) Is occasionally or temporarily absent from that place; or
  - (b) Is absent from that place for any period because of his or her service or that of his or her spouse, civil union partner, or de facto partner as a member of Parliament; or
  - (c) Is absent from that place for any period because of his or her occupation or employment or that of his or her spouse, civil union partner, or de facto partner; or
  - (d) Is absent from that place for any period because he or she, or his or her spouse, civil union partner, or de facto partner, is a student,—
- even if such absence involves occasional or regular residence at another place or other places.
- (7) Except as provided in subsection (8) of this section, a person who has permanently left his or her former home shall be deemed not to reside at that place, notwithstanding that his or her home for the time being is temporary only.
- (8) A New Zealand citizen who is outside New Zealand shall be deemed to reside where he or she had his or her last home in New Zealand; but nothing in this subsection shall affect the application of section 80(1)(a) of this Act for the purpose of determining the qualification of any person for registration as an elector.
- (9) Notwithstanding anything in this section, a person who is residing on, or has resided on, Campbell Island or Raoul Island and who, before residing on Campbell Island or Raoul Island resided in some other part of New Zealand, shall be deemed to reside, or to have resided, throughout that period of residence on Campbell Island or Raoul Island, in the place in New Zealand where that person had his or her last home before beginning residence on Campbell Island or Raoul Island.
- (10) In the case of a person who is appointed to be a member of the Executive Council, or who is the spouse, civil union partner, or de facto partner of any person so appointed, the following pro-

visions shall apply notwithstanding anything to the contrary in this section, namely,—

- (a) So long as he or she holds that office he or she shall be deemed to continue to reside at the place of residence in respect of which he or she was registered as an elector of an electoral district (in this subsection referred to as the original district), notwithstanding his or her absence therefrom at the seat of Government or otherwise, unless and until he or she duly applies for registration as an elector of another electoral district of which he or she is, apart from the provisions of this paragraph, qualified to be an elector:
  - (b) Upon being registered as an elector of the other district pursuant to an application as aforesaid, the applicant shall cease to be entitled to continue to be registered under this subsection as an elector of the original district.
- (11) A person whose home is on any ship, boat, or vessel permanently located in any harbour shall be deemed to reside in the electoral district in which the wharf or landing place or the main wharf or landing place in the harbour is situated. If any question arises under this subsection as to the district in which the wharf or landing place or main wharf or landing place in any harbour is situated, it shall be determined by the Representation Commission.

Compare: 1956 No 107 s 37; 1989 No 31 s 2; 1990 No 1 s 7

Subsection (5) was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the word “prison” for the words “penal institution”. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Subsection (6)(b), (c) and (d) was amended, as from 1 January 2002, by section 48(1) Human Rights Amendment Act 2001 (2001 No 96), by inserting the words “or de facto partner of the same or different sex” after the word “spouse”.

Subsection (6) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “, civil union partner, or de facto partner” for the words “or de facto partner of the same or different sex” wherever they appear.

Subsection (10) was amended, as from 1 January 2002, by section 48(2) Human Rights Amendment Act 2001 (2001 No 96), by inserting the words “or de facto partner of the same or different sex” after the word “spouse”.

Subsection (10) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “, civil

union partner, or de facto partner” for the words “or de facto partner of the same or different sex”.

**73 Meaning of permanent resident of New Zealand**

For the purposes of this Act, a person is a permanent resident of New Zealand if, and only if, that person—

- (a) Resides in New Zealand; and
- (b) Is not—
  - (i) A person to whom section 7 of the Immigration Act 1987 applies; or
  - (ii) A person obliged, by or pursuant to the Immigration Act 1987, to leave New Zealand immediately or within a specified time; or
  - (iii) Deemed for the purposes of the Immigration Act 1987 to be in New Zealand unlawfully.

Compare: 1956 No 107 s 38; 1980 No 29 10(1); 1987 No 74 s 151(1)

*Qualification of electors*

**74 Qualification of electors**

- (1) Subject to the provisions of this Act, every adult person is qualified to be registered as an elector of an electoral district if—
  - (a) That person is—
    - (i) A New Zealand citizen; or
    - (ii) A permanent resident of New Zealand; and
  - (b) That person has at some time resided continuously in New Zealand for a period of not less than one year; and
  - (c) That electoral district—
    - (i) Is the last in which that person has continuously resided for a period equalling or exceeding one month; or
    - (ii) Where that person has never resided continuously in any one electoral district for a period equalling or exceeding one month, is the electoral district in which that person resides or has last resided.
- (2) Where a writ has been issued for an election, every person—
  - (a) Who resides in an electoral district on the Monday before polling day; and

- (b) Who would, if he or she continued to reside in that electoral district until the close of polling day, have continuously resided in that electoral district for a period equalling or exceeding one month,—

shall (whether or not he or she does so continue to reside in that electoral district) be deemed, for the purposes of subsection (1)(c) of this section, to have completed on that Monday a period of one month's continuous residence in that electoral district.

Compare: 1956 No 107 s 39; 1983 No 104 s 3(1); 1985 No 150 s 2(1), (2)

#### **75 Registration in respect of more than one electoral district**

- (1) Subject to subsection (2) of this section, a person shall not be entitled to be registered as an elector of more than one electoral district.
- (2) Where an elector is qualified to be registered as an elector of an electoral district, his or her registration as an elector of that district shall not be invalid by reason only of the fact that at the time of that registration he or she was registered as an elector of a district for which he or she was not, or was no longer, qualified to be registered.
- (3) Notwithstanding that the validity of the registration of an elector of an electoral district is preserved by subsection (2) of this section, for the purposes of section 60 of this Act, such an elector is not qualified, by virtue of that registration, to vote at an election unless, when the elector votes, he or she is no longer registered as an elector of another electoral district.

Compare: 1956 No 107 s 40; 1983 No 104 s 4

#### **76 Maori option**

- (1) Subject to this section and to sections 77 to 79 of this Act, a Maori who possesses the qualifications prescribed in that behalf by this Act shall have the option of being registered either as an elector of a Maori electoral district or as an elector of a General electoral district.
- (2) Every such option shall be exercised—
- (a) At the time the Maori first qualifies and applies to be registered as an elector of any electoral district; or

- (b) In the case of a Maori who was not registered as an elector of any electoral district on the first day of the period last specified in a notice published under section 77(2) of this Act, on the first subsequent application for registration as an elector; or
- (c) In any other case, in accordance with section 77 or section 78 of this Act.

Compare: 1956 No 107 s 41; 1980 No 29 s 12(1); 1981 No 120 s 14(1)

**77 Periodic exercise of Maori option and determination of Maori population**

- (1) Every elector who is a Maori may exercise periodically, in accordance with this section, the option given by section 76(1) of this Act.
- (2) The Minister shall, in accordance with this section, specify from time to time, by notice in the *Gazette*, a period of 4 months during which any Maori may exercise the option given by section 76(1) of this Act.
- (3) The Minister shall, as soon as practicable after the commencement of this section, and in accordance with section 269(2) of this Act, publish the first notice under subsection (2) of this section.
- (4) Subject to subsections (3) and (5) of this section and to section 269(2) of this Act, the Minister shall, in every year that a quinquennial census of population is taken, but in no other year, publish a notice under subsection (2) of this section.
- (5) Notwithstanding subsection (4) of this section, where a Parliament is due to expire in a year in which a quinquennial census of population is to be taken, the Minister shall not, in that year, publish a notice under subsection (2) of this section, but shall instead, in the year following the year in which the quinquennial census of population is taken, publish such a notice.
- (6) For the purpose of enabling the Government Statistician to calculate the Maori electoral population, the Chief Registrar shall, as soon as practicable after the last day of each period specified in a notice published under subsection (2) of this section, supply to the Government Statistician—

- (a) The total number of persons registered as electors of the Maori electoral districts as at the close of that last day; and
- (b) The total number of persons registered as electors of the General electoral districts, who, as at the close of that last day, are recorded as having given written notice to the Registrar that they are persons of New Zealand Maori descent and.
- (c) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for the Maori electoral districts; and
- (d) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for General electoral districts who are recorded as having given written notice that they are persons of New Zealand Maori descent.

Compare: 1956 No 107 s 41A; 1980 No 29 s 12(1); 1981 No 120 s 15; 1990 No 1 s 8

Subsection (2) was amended, as from 2 September 1996, by section 2 Electoral Amendment Act (No 3) 1996 (1996 No 154) by substituting the expression “4” for the expression “2”.

Subsection (6)(b) was amended, as from 18 March 2002, by section 20 Electoral Amendment Act 2002 (2002 No 1) by inserting the word “and”.

Subsection (6)(c) and (6)(d) were inserted, as from 18 March 2002, by section 20 Electoral Amendment Act 2002 (2002 No 1).

## **78 Exercise of Maori option**

- (1) Every Maori who is registered as an elector on the first day of any period specified in a notice published under section 77(2) of this Act may exercise once in that period the option given by section 76(1) of this Act.
- (2) In each period specified in a notice published under section 77(2) of this Act, the Registrar shall send by post on the first day of that period a notice in the form prescribed for the purposes of this section to—
  - (a) Every person registered as an elector of a Maori electoral district; and
  - (b) Every person registered as an elector of a General electoral district who has given written notice to the Registrar that that person is of New Zealand Maori descent.

- (3) Every Maori—
- (a) Who is registered as an elector on the first day of the period in which the notice is sent under subsection (2) of this section; and
  - (b) Who—
    - (i) Being registered as an elector of a Maori electoral district wishes to be registered as an elector of a General electoral district; or
    - (ii) Being registered as an elector of a General electoral district wishes to be registered as an elector of a Maori electoral district,—
- shall indicate his or her choice on the prescribed form, sign and date it, and return it to the Registrar.
- (3A) If a Maori who wishes to exercise the option given by section 76(1) is physically disabled or is outside New Zealand, the form may be signed on his or her behalf—
- (a) by a donee of a power of attorney from the person, which donee must indicate on the form that the person is a physically disabled person or is outside New Zealand, as the case may be; or
  - (b) by a registered elector who signs and returns by direction of the person and who indicates on the form—
    - (i) that the person is a physically disabled person or is outside New Zealand, as the case may be; and
    - (ii) that the form is being signed and returned by direction of the person.
- (4) The Registrar, on receipt of any duly completed form, shall send the form to the Registrar in whose district the elector resides.
- (5) Every duly completed form received by a Registrar pursuant to subsection (4) of this section shall be deemed, for the purposes of the definition of the term **electoral roll** in section 3(1) of this Act and for the purposes of sections 89, 98, and 103 of this Act, to be an application for registration as an elector and shall be treated accordingly.
- (6) No elector shall, by reason only of a failure to return a form sent to him or her under subsection (2) of this section, have his or her name removed from the electoral roll.

- (7) Every Maori who is registered as an elector of a Maori electoral district on the first day of any period specified in a notice published under section 77(2) of this Act and who fails to exercise in that period the option given by section 76(1) of this Act shall be deemed to have exercised his or her option to register as an elector of a Maori electoral district.
- (8) Every Maori who is registered as an elector of a General electoral district on the first day of any period specified in a notice published under section 77(2) of this Act and who fails to exercise in that period the option given by section 76(1) of this Act shall be deemed to have exercised his or her option to register as an elector of a General electoral district.
- (9) Where a document by which the option given by section 76(1) of this Act may be exercised, being a notice in the form prescribed for the purposes of this section or an application for registration, is received by the Registrar by post after the end of a period specified in a notice published under section 77(2) of this Act but not later than noon on the day after the last day of that period, that document shall be deemed to have been received in that period, and the elector shall, if the document is otherwise in order, be deemed to have exercised the option given by section 76(1) of this Act in that period.
- (10) Where the Registrar receives, in a period specified in a notice published under section 77(2) of this Act, a document by which the option given by section 76(1) of this Act may be exercised but which does not comply with requirements concerning the signing or dating of that document or the particulars that it must contain, the Registrar may treat the document as being in accordance with those requirements before the end of that period if the non-compliance is remedied within 6 days after the end of that period.
- (11) For the purposes of this section, a person registered as an elector includes a person of or over the age of 17 years who has had an application under section 82(2) to register as an elector accepted as being in order.

Compare: 1956 No 107 s 41B; 1981 No 120 s 16; 1983 No 104 s 5(2); 1990 No 1 s 9

Subsection (1) was amended, as from 18 March 2002, by section 21(1) Electoral Amendment Act 2002 (2002 No 1) by omitting the words “Notwithstanding section 83(6)(b) of this Act”.

Subsection (3A) was inserted, as from 18 March 2002, by section 21(2) Electoral Amendment Act 2002 (2002 No 1).

Subsection (11) was inserted, as from 18 March 2002, by section 21(3) Electoral Amendment Act 2002 (2002 No 1).

**79 Restriction on transfer between General and Maori electoral rolls**

Except as provided in sections 76 to 78 of this Act,—

- (a) No Maori may transfer from a General electoral roll to a Maori electoral roll or vice versa:
- (b) No Maori whose name has been removed from an electoral roll or who ceases to be qualified as an elector of an electoral district may be registered as an elector for a different type of electoral district.

Compare: 1956 No 107 s 41C; 1981 No 120 s 17

**80 Disqualifications for registration**

- (1) The following persons are disqualified for registration as electors:
  - (a) A New Zealand citizen who (subject to subsection (3) of this section) is outside New Zealand and has not been in New Zealand within the last 3 years:
  - (b) A permanent resident of New Zealand (not being a New Zealand citizen) who (subject to subsection (3) of this section) is outside New Zealand and has not been in New Zealand within the last 12 months:
  - (c) a person who is detained in a hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992 or in a secure facility under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, and to whom 1 of the following applies:
    - (i) the person has been found by a Court or a Judge to be unfit to stand trial within the meaning of the Criminal Procedure (Mentally Impaired Persons) Act 2003, or has been acquitted on account of his or her insanity, and (in either case) is detained under an order or direction under section 24 or section 31 or section 33 of that Act or under the corresponding provisions of the Criminal Justice

- Act 1985 and has been so detained for a period exceeding 3 years:
- (ii) the person has been found by a Court, on conviction of any offence, to be mentally impaired, and is detained under an order made under section 34 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 or section 118 of the Criminal Justice Act 1985, and has been so detained for a period exceeding 3 years:
  - (iii) the person is subject to, and has for a period exceeding 3 years been subject to, a compulsory treatment order made following an application under section 45(2) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or a compulsory care order made following an application under section 29(1) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003:
  - (iv) the person is detained under section 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, and is a person to whom paragraph (d) would otherwise apply:
- (d) A person who, under—
- (i) A sentence of imprisonment for life; or
  - (ii) A sentence of preventive detention; or
  - (iii) A sentence of imprisonment for a term of 3 years or more,—
- is being detained in a prison:
- (e) A person whose name is on the Corrupt Practices List made out for any district.
- (2) The Registrar of the Court in which any compulsory treatment order or any order under section 24 or section 34 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 is made or any person is convicted of a corrupt practice shall, not later than the 5th day of the month next succeeding the date of the order or conviction, forward to the Registrar of Electors of the electoral district in which the patient or offender was residing a certificate showing the name, place of abode, and de-

scription of the patient or offender and particulars of the order or conviction.

- (3) Nothing in subsection (1)(a) or (b) of this section applies to—
- (a) A person, being—
    - (i) A public servant or a member of the Defence Force; or
    - (ii) A head of mission or head of post within the meaning of the Foreign Affairs Act 1988, who is outside New Zealand in the course of that person's duties; or
    - (iii) An officer or employee of New Zealand Trade and Enterprise established by the New Zealand Trade and Enterprise Act 2003; or
  - (b) A person who—
    - (i) Is accompanying a person described in subparagraph (i) or subparagraph (ii) or subparagraph (iii) of paragraph (a) of this subsection who is outside New Zealand in the course of that person's duties; and
    - (ii) is the spouse, civil union partner, de facto partner, or child of the person referred to in subparagraph (i), or the child of the spouse, civil union partner, or de facto partner of that person.

Compare: 1956 No 107 s 42; 1980 No 29 s 13(1); 1985 No 120 s 150(1); 1988 No 34 s 12(4); 1988 No 159 s 14(1); 1988 No 160 s 12(2)

Subsection (1)(c) was substituted, as from 1 September 2004, by section 51 Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115). See clause 2 Criminal Procedure (Mentally Impaired Persons) Act Commencement Order 2004 (SR 2004/147).

Subsection (1)(d) was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the word "prison" for the words "penal institution". See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Subsection (2) was amended, as from 1 September 2004, by section 51 Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115) by substituting the words "section 24 or section 34 of the Criminal Procedure (Mentally Impaired Persons) Act 2003" for the words "section 115(1) or section 118 of the Criminal Justice Act 1985". See clause 2 Criminal Procedure (Mentally Impaired Persons) Act Commencement Order 2004 (SR 2004/147).

Subsection (3)(a)(iii) was amended, as from 1 July 2003, by section 84 New Zealand Trade and Enterprise Act 2003 (2003 No 27) by substituting the words "New Zealand Trade and Enterprise established by the New Zealand Trade

and Enterprise Act 2003” for the words “the New Zealand Trade Development Board established by the New Zealand Trade Development Board Act 1988”.

Subsection (3)(b)(ii) was substituted, as from 1 January 2002, by section 49 Human Rights Amendment Act 2001 (2001 No 96).

Subsection (3)(b)(ii) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

## **81 Detention in prison pursuant to conviction**

- (1) Where a person who has been sentenced to imprisonment is received into a prison in which that person is to serve the whole or part of the sentence, the prison manager of that prison shall, not later than the 7th day after the day on which the prisoner is received into the prison, forward to the Chief Registrar of Electors a notice—
- (a) Showing the name, previous residential address, and date of birth of that person; and
  - (b) Showing the name and address of the prison; and
  - (c) Indicating whether the provisions of section 80(1)(d) of this Act apply to that person.
- (2) The Chief Registrar of Electors shall, on receiving a notice under subsection (1) of this section, forward a copy of that notice to the appropriate Registrar of Electors.

Compare: 1956 No 107 s 42A; 1990 No 1 s 10

The heading to section 81 was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the word “prison” for the words “penal institution”. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Subsection (1) was amended, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9), by substituting the word “imprisonment” for the words “a full-time custodial sentence”. See sections 148 to 160 of that Act for the transitional and savings provisions. See clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

Subsection (1) was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the word “prison” for the words “penal institution” wherever they appeared. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Subsection (1) was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the words “prison manager” for the word “superintendent”. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Subsection (1) was repealed, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the word “prisoner” for the word “inmate”. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

*Registration*

**82 Compulsory registration of electors**

- (1) Every person qualified to be registered as an elector of any electoral district shall, if he or she is in New Zealand, make application in the prescribed form to a Registrar of Electors for registration as an elector—
  - (a) Within one month after the date on which he or she first becomes qualified to be registered as an elector; and also
  - (b) Within 1 month after the date on which he or she ceases to be registered as an elector by reason of the inclusion of his or her name on the dormant roll under section 83C; and also
  - (c) Within one month after the date on which, following a change in his or her place of residence from the electoral district to another, he or she first becomes qualified to be registered as an elector of that other electoral district.
- (2) Notwithstanding anything in subsection (1)(a) of this section, any person of or over the age of 17 years may make application in the prescribed form to a Registrar of Electors for registration as an elector, and that person shall, upon attaining the age of 18 years, be registered as an elector without any further application.
- (3) Every person qualified to be registered as an elector of any electoral district may, if he or she is outside New Zealand, make application in the prescribed form to a Registrar of Electors for registration as an elector of that district at any time.
- (4) Where a Maori is qualified to be registered as an elector of both a Maori electoral district and a General electoral district, this section shall apply with respect to only one of those districts, being the district in respect of which he or she has exercised his or her option under section 76 of this Act.
- (5) Where it appears to the Registrar that an applicant is qualified to be registered as an elector of another electoral district, the Registrar shall forthwith send the application to the Registrar of that district.
- (6) Every person commits an offence against this section who, being required by this section to apply for registration as an

elector during any period, knowingly and wilfully fails to so apply.

- (7) No person who applies for registration as an elector shall be liable to prosecution for an earlier failure to apply for registration as an elector.
- (8) Every person who commits an offence against this section shall be liable on summary conviction to a fine not exceeding \$100 on a first conviction, and to a fine not exceeding \$200 on any subsequent conviction.
- (9) Notwithstanding anything in subsections (1) to (7) of this section or in section 72(9) of this Act, no person is required to apply for registration as an elector while that person is living on Campbell Island or Raoul Island.

Compare: 1956 No 107 s 43(1)-(3), (5)-(9); 1990 No 1 s 11(1)

Subsection (1)(b) was substituted, as from 18 March 2002, by section 22 Electoral Amendment Act 2002 (2002 No 1).

### **83 Updating of electoral rolls**

- (1) Every Registrar must, at the times required by or under this section, direct an inquiry to be made concerning the particulars on the roll of every person registered as an elector of the district.
- (2) An inquiry must be made,—
  - (a) where practicable, within the period of 12 months ending with the day on which a Parliament is due to expire; and
  - (b) at any other time directed by the Chief Registrar.
- (3) In any year in which a triennial general election of members of any local authority must be held under the Local Electoral Act 2001, every Registrar of a district that is, in part or in whole, within the local government area of a local authority must direct an inquiry to be made concerning the particulars on the roll of every person who—
  - (a) is registered as an elector of that district; and
  - (b) appears from those particulars to reside within that local government area.
- (4) If a roll that is not yet in force has been compiled under section 101(1), the inquiry directed to be made under this section must be in respect of that roll.

- (5) Every inquiry made under subsection (1) must—
- (a) be in the prescribed form; and
  - (b) contain both the particulars on the roll of the elector to whom it is addressed and provision for the elector to make the changes to the information contained in the form; and
  - (c) require the elector to return the form if any of those particulars have changed or are incorrect.
- (6) For the purposes of this section,—
- (a) a **person registered as an elector** includes any person of or over the age of 17 years who has had an application under section 82(2) to register as an elector accepted as being in order; and
  - (b) the particulars contained in the application to register are the particulars on the roll for that person.

Subsection (8) was amended, as from 6 December 1995, by section 26(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “paragraphs (a) to (h)” for the words “paragraphs (a) to (f) and (h)”.

Subsection (9) was repealed, as from 6 December 1995, by section 26(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 83 was substituted, as from 18 March 2002, by section 23 Electoral Amendment Act 2002 (2002 No 1).

### **83A Procedure following inquiry under section 83**

- (1) If, following an inquiry under section 83, the Registrar receives a form in which an elector notifies the Registrar that the elector has changed his or her place of residence and now resides in another electoral district,—
- (a) the Registrar must ensure that the form, or the information contained in the form, is transmitted to the Registrar for the new electoral district; and
  - (b) the Registrar for the new electoral district must, as if the form were an application for registration, register that elector, in accordance with section 87, on the roll for the district in which the elector resides; and
  - (c) the form is deemed to be an application for registration for the purposes of section 82; and
  - (d) the Registrar for the old electoral district must, in accordance with section 98(1)(a), remove from his or her roll the name of the elector.

- (2) If, following an inquiry under section 83, the Registrar receives a form from an elector that contains a change to any particulars other than a change of place of residence referred to in subsection (1), the Registrar must amend the roll in accordance with the information supplied.
- (3) If the Registrar does not receive a form from an elector, or receives a form with no changes, that elector remains on the roll and his or her particulars on the roll remain unchanged.
- (4) Subsections (1), (2), and (4) of section 85 apply, with all necessary modifications, to any form that is intended to be returned, or has been returned, in response to an inquiry under section 83.

Sections 83A to 83D were inserted, as from 18 March 2002, by section 23 Electoral Amendment Act 2002 (2002 No 1).

**83B No form of inquiry required if application for registration as elector received**

If the Registrar receives, during an inquiry under section 83(1), or within 28 days before the commencement of an inquiry under that section, a duly completed application for registration as an elector,—

- (a) that application is deemed to be a completed form for the purposes of section 83; and
- (b) the Registrar must notify that elector that he or she will not receive a form of inquiry under section 83.

Sections 83A to 83D were inserted, as from 18 March 2002, by section 23 Electoral Amendment Act 2002 (2002 No 1).

**83C Elector who cannot be contacted to be included in dormant roll**

- (1) This section applies if—
  - (a) the Registrar is notified that an inquiry made under section 83(1) or a form sent under section 78(2) cannot be delivered to the elector to whom it is addressed because the whereabouts of the elector are not known; or
  - (b) at any other time the elector cannot be contacted at the elector's address on the roll.
- (2) If this section applies, the Registrar must—

- (a) make any inquiry as to the whereabouts of the elector that the Registrar thinks fit or that the Chief Registrar directs; and
- (b) if the Registrar is then unable to contact the elector, the Registrar must remove the name of the elector from the roll and include the name in the dormant roll maintained under section 109.

Sections 83A to 83D were inserted, as from 18 March 2002, by section 23 Electoral Amendment Act 2002 (2002 No 1).

### **83D Transfer of electors between electorates**

- (1) This section applies if a Registrar has received advice under section 82(1)(c) or otherwise that an elector has changed his or her place of residence and now resides in an electoral district other than the district in respect of which the elector is registered.
- (2) If the Registrar who receives the advice referred to in subsection (1) is the Registrar of the electoral district in which the elector now resides (the **new Registrar**), the new Registrar must inform the Registrar of the electoral district in respect of which the elector is registered (the **old Registrar**) of that information.
- (3) If the old Registrar believes that at least 1 month has elapsed since the change in the elector's place of residence, the old Registrar must send the elector a request for confirmation of the elector's new place of residence.
- (4) A request under subsection (3) must be in the prescribed form and must contain—
  - (a) the particulars of the enrolment of the elector to whom it is addressed; and
  - (b) the address of the elector's new place of residence; and
  - (c) provision for the elector to make changes to the information in paragraph (a) or paragraph (b).
- (5) An elector who receives a form under this section must, within the time stated by the Registrar, sign the form and return it to the old Registrar.
- (6) If the old Registrar receives a form returned under subsection (5),—

- (a) the old Registrar must ensure that the form, or the information contained in the form, is transmitted to the new Registrar; and
  - (b) the new Registrar must, as if the form were an application for registration, register that elector, in accordance with section 87, on the roll for the district in which the elector resides; and
  - (c) the form is deemed to be an application for registration for the purposes of section 82; and
  - (d) the old Registrar must, in accordance with section 98(1)(a), remove from his or her roll the name of the elector.
- (7) Nothing in this section applies if a form is returned under section 83A(1).

Sections 83A to 83D were inserted, as from 18 March 2002, by section 23 Electoral Amendment Act 2002 (2002 No 1).

#### **84 Power to combine revisions of electoral rolls with exercise of Maori option**

*[Repealed]*

Section 84 was repealed, as from 18 March 2002, by section 24 Electoral Amendment Act 2002 (2002 No 1).

#### **85 Application for registration**

- (1) Subject to subsection (2) of this section, every person making any application or declaration in respect of registration as an elector shall sign or place his or her mark on the application or declaration.
- (2) If a person making an application or declaration in respect of registration as an elector is physically disabled or is outside New Zealand, the application or declaration may be signed on his or her behalf—
  - (a) by a donee of a power of attorney from the person, which donee must indicate on the application or declaration that the applicant is a physically disabled person or is outside New Zealand, as the case may be; or
  - (b) by a registered elector who signs by direction of the person and who indicates on the application or declaration—

- (i) that the person is a physically disabled person or is outside New Zealand, as the case may be; and
  - (ii) that the application or declaration is being signed and returned by direction of the applicant or declarant.
- (3) The application or declaration must state, in respect of the person making the application or declaration,—
  - (a) the person's surname or family name:
  - (b) the person's full given or first names:
  - (c) the place of residence in respect of which registration is claimed, which place of residence must be specified in a manner that enables it to be clearly identified:
  - (d) the person's postal address, if different from the address given under paragraph (c):
  - (e) the person's occupation (if any):
  - (f) the person's date of birth:
  - (g) the honorific (if any) by which the person wishes to be addressed:
  - (h) whether or not the person is of New Zealand Maori descent:
  - (i) any other particulars that are prescribed.
- (4) The Registrar may reject any application or declaration that does not comply with subsection (1) or with any of the provisions of paragraphs (a), (b), (c), (f), and (i) of subsection (3).
- (5) Where any applicant or declarant does not comply with subsection (3)(h), this Act shall apply as if the applicant or declarant had stated in that application or declaration that the applicant or declarant was not a person of New Zealand Maori descent and the applicant or declarant shall not be deemed, by reason of that failure, to have failed to comply with subsection (3) of this section.

Compare: 1956 No 107 s 48; 1981 No 120 s 20(1); 1990 No 1 s 17

Subsections (2) to (4) were substituted, as from 18 March 2002, by section 25(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (5) was amended, as from 18 March 2002, by section 25(2) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “subsection (3)(h)” for the words “subsection (3)(g) of this section”.

**86 Registration of mentally incapable persons**

- (1) Where a person lacks, wholly or partly, the capacity to understand the nature of the decision to register as an elector, one of the persons listed in subsection (2) of this section may register that person as an elector by making an application in respect of that person in the prescribed form.
- (2) The persons who may register, as an elector, a person to whom subsection (1) of this section applies are—
  - (a) Any registered elector;
  - (b) The welfare guardian appointed for that person under section 12(1) of the Protection of Personal and Property Rights Act 1988;
  - (c) The attorney appointed by that person under an enduring power of attorney.
- (3) Where a person described in subsection (2)(b) of this section registers, as an elector, a person to whom subsection (1) of this section applies, the first-mentioned person must state in the application that registration of the person as an elector is one of the aspects of the personal care and welfare of that person in relation to which the welfare guardian was appointed.
- (4) Where a person described in subsection (2)(c) of this section registers, as an elector, a person to whom subsection (1) of this section applies, the first-mentioned person must state in the application that—
  - (a) Registration as an elector of the person is one of the matters relating to the personal care and welfare of that person in relation to which the attorney is authorised to act under an enduring power of attorney; and
  - (b) The occasion for the attorney to act has arisen under section 98(3) of the Protection of Personal and Property Rights Act 1988.
- (5) A person described in subsection (2) who registers, as an elector, a person to whom subsection (1) applies may also, on behalf of that person,—
  - (a) sign and return the form for the purposes of section 78(3); or
  - (b) decide whether it is necessary to return a form sent to that person under section 83 and, if necessary, sign and

- return the form together with any corrections to the information contained in it; or
- (c) sign and return a form for the purposes of section 83D; or
  - (d) sign and forward a statement for the purposes of section 97(3).
- (6) Nothing in this section has the effect of extending the assistance that may be given to persons voting in accordance with section 170 of this Act.

Compare: 1956 No 107 s 48A(1)-(4), (5)(b), (c), (6)

Subsection (5) was substituted, as from 18 March 2002, by section 26 Electoral Amendment Act 2002 (2002 No 1).

### **87 Procedure following application for registration**

- (1) If the Registrar is satisfied that any applicant for registration as an elector (whether by transfer from another district, or otherwise) is qualified to be registered, he or she shall forthwith enter the name of the applicant on the roll.
- (2) Where it appears to the Registrar that an applicant who is a Maori is prevented, by the manner in which he or she last exercised the option given by section 76 of this Act, from being registered as an elector of the district to which his or her application relates, the Registrar shall forthwith send the application to the Registrar of the district in respect of which the applicant is entitled to be registered and shall notify the elector of his or her reasons for refusing the application and of the Registrar to whom the application has been sent.
- (3) Where an application for registration as an elector has been received before the issue of a writ and it has not been possible for the Registrar to ascertain, at the time of the issue of the writ, whether the applicant is currently registered as an elector of another electoral district, the Registrar shall, subject to subsection (4) of this section, include the name of the applicant on any main, supplementary, or composite roll printed as at writ day.
- (4) Notwithstanding anything in this Act, where the Registrar has, under subsection (3) of this section, included the name of any person on any main, supplementary, or composite roll printed

as at writ day, the Registrar shall, within 6 days after writ day determine, either—

- (a) To enter the name of the applicant on the electoral roll; or
- (b) To delete the name of the applicant from that main, supplementary, or composite roll.

Compare: 1956 No 107 s 49(1), (4), (5); 1980 No 29 s 17(1); 1981 No 120 s 21

### **88 Applications received after issue of writ**

- (1) Where a writ has been issued requiring the conduct of an election in a district, then, subject to subsections (2) and (3) of this section, the Registrar shall not, at any time in the period beginning on polling day and ending with the day of the return of the writ, register any application for registration as an elector that the Registrar receives on or after polling day.
- (2) For the purposes of subsection (1) of this section, an application for registration shall be deemed to have been received before polling day if—
  - (a) The application or the envelope in which it is contained bears a postmark or date stamp impressed at any New Zealand Post outlet or agency before polling day; or
  - (b) The applicant for registration produces a receipt which relates to the application and which was issued by any New Zealand Post outlet or agency before polling day.
- (3) Where any person applies for registration after a writ has been issued requiring the conduct of an election in a district and before polling day,—
  - (a) The Registrar shall, if the Registrar is satisfied that that person is qualified to be registered, forthwith enter the name of that person on the electoral roll; and
  - (b) The Registrar shall not be required to enter the name of that person on the main roll or any supplementary roll or composite roll used at that election; and
  - (c) That person may, at that election, vote only by way of a special vote.

Compare: 1956 No 107 s 50; 1990 No 1 s 20(1)

Section 88 was substituted, as from 6 December 1995, by section 27 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsections (1) and (3) were amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “requiring the conduct of an election” for the words “for an election”.

**89 Notice of registration**

The Registrar must, not later than 14 days after the registration of a person (including registration in accordance with section 83A(1)(b) or section 83D(6)(b) following a transfer from another district), deliver to that person personally, or send to that person by post, notice in writing of the registration.

Section 89 was substituted, as from 18 March 2002, by section 27 Electoral Amendment Act 2002 (2002 No 1).

*Changes of address*

**90 Changes of address to be notified**

- (1) Every person who, while remaining resident within an electoral district, changes his or her place of residence within that district, shall, within 2 months after the date of the change of his or her place of residence, give a written notice to the Registrar of—
- (a) The change of place of residence; and
  - (b) The address of the new place of residence.
- (2) Where a person to whom subsection (1) of this section applies is both—
- (a) A person who lacks, wholly or partly, the capacity to understand the nature of the decision to register as an elector; and
  - (b) A person in respect of whom a welfare guardian appointed for that person under section 12(1) of the Protection of Personal and Property Rights Act 1988 or an attorney appointed by that person under an enduring power of attorney holds office,—
- the person holding office as that welfare guardian or the person holding office as that attorney shall, on behalf of the person to whom subsection (1) of this section applies, comply with subsection (1) of this section, and the person to whom subsection (1) of this section applies shall not be under any personal obligation to comply with that subsection.

- (3) Every person commits an offence who knowingly and wilfully fails to comply with subsection (1) or subsection (2) of this section.
- (4) Every person who commits an offence against this section shall be liable on summary conviction to a fine not exceeding \$50 on a first conviction, and to a fine not exceeding \$100 on any subsequent conviction.

Compare: 1956 No 107 s 44; 1990 No 1 s 13(1)

#### **91 Effect of failure to notify change of address**

A registered elector who has changed his or her place of residence within an electoral district as aforesaid shall not be disqualified from voting at an election in that district by reason only that he or she has not given notice of that change of address as required by section 90 of this Act.

Compare: 1956 No 107 s 45

#### *Death of registered elector*

#### **92 Notification of death of registered elector**

- (1) The Registrar-General of Births and Deaths must, as soon as is reasonably practicable after the registration of the death of any person of or over the age of 17 years, notify the information described in subsection (2) to the Chief Registrar of Electors.
- (2) The information referred to in subsection (1) is the fact of the death, together with any particulars known to the Registrar-General of Births and Deaths that may be required to enable the Chief Registrar and Chief Electoral Officer—
- (a) to determine the electoral district in which the deceased person resided; and
  - (b) to take appropriate steps in relation to the roll and other records.

Sections 92 to 94 were substituted, as from 18 March 2002, by section 28(1) Electoral Amendment Act 2002 (2002 No 1).

#### *Marriage or civil union of registered elector*

This heading was amended, as from 26 April 2005, by section 46 Civil Union Act 2004 (2004 No 102) by inserting the words “or civil union” after the word “Marriage”.

**93 Notification of marriages**

- (1) This section applies if a person to whom a notice of intended marriage under the Marriage Act 1955 or a notice of intended civil union under the Civil Union Act 2004 relates—
  - (a) is registered as an elector of any district; or
  - (b) is a person of or over the age of 17 years who has made an application under section 82(2) of this Act for registration as an elector of any district.
- (2) The person referred to in subsection (1), or the other party to the intended marriage or civil union, must provide to the Registrar (within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995) the information requested by the Chief Registrar for the purposes of this section.
- (3) The Chief Registrar may approve a form for the purposes of subsection (2).
- (4) The Registrar (within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995) must transmit the information provided under subsection (2) to the Registrar for the district of which the person is registered as an elector.
- (5) The Registrar who receives the information provided under subsection (2) must, after the date of the intended marriage or civil union, send by post to each of the parties to the intended marriage or civil union a notice inquiring whether, as a result of the marriage or civil union, any change is required in the name, address, and occupation under which he or she is or is to be registered on the roll.
- (6) If a person to whom a notice is sent under subsection (5) states that a change is required, the Registrar of Electors must amend the roll in accordance with the particulars supplied.
- (7) If an amendment to the roll is necessary under subsection (6) and the amendment does not appear on the main or supplementary roll printed for any election, the person is, if otherwise qualified, entitled to vote at the election under his or her former name as it appears on the roll.

Subsection (1) was amended, as from 28 July 1997, by section 7 Births, Deaths, and Marriages Registration Amendment Act 1997 (1997 No 35) by substituting the words “(within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995)” for the words “of Marriages”.

Sections 92 to 94 were substituted, as from 18 March 2002, by section 28(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (1) was amended, as from 26 April 2005, by section 46 Civil Union Act 2004 (2004 No 102) by inserting the words “or a notice of intended civil union under the Civil Union Act 2004” after the expression “Marriage Act 1955”.

Subsection (2) was amended, as from 26 April 2005, by section 46 Civil Union Act 2004 (2004 No 102) by inserting the words “or civil union” after the word “marriage”.

Subsection (5) was amended, as from 26 April 2005, by section 46 Civil Union Act 2004 (2004 No 102) by inserting the words “or civil union” after the word “marriage” wherever it appears.

### *Change of name of registered elector*

#### **94 Notification of change of name**

- (1) This section applies if a person registers a change of his or her name under section 21 of the Births, Deaths, and Marriages Registration Act 1995.
- (2) The Registrar-General must provide to the Chief Registrar the following information for the purposes of determining whether any change is required to the name and address under which that person is registered on the roll:
  - (a) the old name and the new name of the person; and
  - (b) the person’s date of birth; and
  - (c) the person’s full residential address.

Section 94 was amended, as from 1 September 1995, pursuant to section 96 Births, Deaths, and Marriages Registration Act 1995 by substituting a reference to the “Deaths, and Marriages Registration Act 1995” for a reference to the “Births and Deaths Registration Act 1951”.

Sections 92 to 94 were substituted, as from 18 March 2002, by section 28(1) Electoral Amendment Act 2002 (2002 No 1).

### *Confirmation of change of name, address, or other particulars*

This heading was inserted, as from 18 March 2002, by section 28(1) Electoral Amendment Act 2002 (2002 No 1).

**94A Confirmation of change of name, address, or other particulars**

- (1) This section applies if the Registrar, in accordance with this Act, amends, in relation to any person whose name appears on the roll, any of the following particulars:
  - (a) the place of residence of the person, following a change of residence within an electoral district; or
  - (b) the name of the person; or
  - (c) any other particulars of a kind specified in paragraph (d), (h), or (i) of section 85(3).
- (2) The Registrar must, not later than 14 days after the roll is amended, deliver to that person personally, or send to that person by post, notice in writing of the amendment of the particulars on the roll.

Section 94A was inserted, as from 18 March 2002, by section 28(1) Electoral Amendment Act 2002 (2002 No 1).

*Objections to registration*

**95 Elector's objection**

- (1) Any elector may at any time object to the name of any person being on the roll for any district on the ground that that person is not qualified to be registered as an elector of that district.
- (2) Every such objection—
  - (a) Shall be made in writing to the Registrar for the district; and
  - (b) Shall specify—
    - (i) The name of the objector; and
    - (ii) Sufficient particulars to inform the person objected to of the ground for the objection and the reason or reasons supporting the ground for objection.
- (3) Where the Registrar considers that the particulars included in an objection are insufficient to inform the person objected to of the ground for the objection or the reason or reasons supporting that ground, the Registrar shall by written notice require the objector to provide within 14 days of the giving of the notice such further particulars as the Registrar thinks fit.

- (4) Where any objector fails to comply with a notice given under subsection (3) of this section, the Registrar shall give a second such notice to the objector and, if the objector fails to comply with the second such notice, the Registrar shall take no further action in relation to the objection and shall notify the objector accordingly.

Compare: 1956 No 107 s 52; 1990 No 1 s 21(1)

Section 95 was substituted, sections 95A to 95D were inserted, and section 96 was substituted, as from 6 December 1995, by section 28 Electoral Amendment Act (No 2) 1995 (1995 No 61).

#### **95A Notice of elector's objection**

- (1) Subject to subsections (3) and (4) of section 95 of this Act, the Registrar shall, on receipt of an objection under section 95 of this Act, forthwith serve on—
- (a) The person objected to; or
  - (b) The person who, under section 12(1) of the Protection of Personal and Property Rights Act 1988, is the welfare guardian for the person objected to; or
  - (c) The attorney appointed by the person objected to under an enduring power of attorney,—
- notice in writing of the objection, which notice shall include both the name of the objector and the particulars specified by the objector (being particulars sufficient to inform the person objected to of the ground for the objection and the reason or reasons supporting the ground for objection).
- (2) Any notice issued under subsection (1) of this section shall be served personally in accordance with the rules governing personal service contained in the District Courts Rules 1992.
- (3) The notice issued by the Registrar under subsection (1) of this section shall also inform the person objected to—
- (a) That he or she may forward to the Registrar a statement signed by him or her giving reasons why his or her name should be retained on the roll; and
  - (b) That his or her name will be retained on the roll if he or she provides the Registrar with evidence that satisfies the Registrar that the name of the person objected to should be retained on the roll; and

- (c) That if he or she fails to forward a statement to the Registrar within 14 days after the day on which that notice is served on the person objected to, the Registrar will, under section 95B of this Act, remove from the roll the name of the person objected to.
- (4) Where, after making such inquiry as he or she thinks fit, or the Chief Registrar directs, the Registrar is unable, after making at least 2 attempts to do so, to serve the notice of objection on that person personally, the Registrar shall remove the name of that person from the roll and include the name in the dormant roll maintained under section 109 of this Act.

Section 95 was substituted, sections 95A to 95D were inserted, and section 96 was substituted, as from 6 December 1995, by section 28 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was amended, as from 18 March 2002, by section 29 Electoral Amendment Act 2002 (2002 No 1) by substituting the words “roll maintained” for the words “file created”.

#### **95B Power to remove name from roll**

Where, within 14 days after the day on which a notice under section 95A(1) or section 96(2) of this Act is served on the person objected to,—

- (a) The person objected to; or
- (b) The person who, under section 12(1) of the Protection of Personal and Property Rights Act 1988, is the welfare guardian for the person objected to; or
- (c) The attorney appointed by the person objected to under an enduring power of attorney,—

either fails to provide evidence of eligibility to be on the roll or notifies the Registrar that he or she consents to the removal from the roll of the name of the person objected to, the Registrar shall, unless the objection has been withdrawn by the objector, remove from the roll the name of the person objected to and shall notify the parties accordingly.

Section 95 was substituted, sections 95A to 95D were inserted, and section 96 was substituted, as from 6 December 1995, by section 28 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**95C Power to retain name on roll**

Where, within 14 days after the day on which a notice under section 95A(1) or section 96(2) of this Act is served on the person objected to,—

- (a) The person objected to; or
- (b) The person who, under section 12(1) of the Protection of Personal and Property Rights Act 1988, is the welfare guardian for the person objected to; or
- (c) The attorney appointed by the person objected to under an enduring power of attorney,—

provides the Registrar with evidence that satisfies the Registrar that the person objected to is qualified to be on the roll, the name of the person objected to shall be retained on the roll and the Registrar shall notify the parties accordingly.

Section 95 was substituted, sections 95A to 95D were inserted, and section 96 was substituted, as from 6 December 1995, by section 28 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**95D Reference of elector's objection to District Court**

- (1) Unless,—
  - (a) Within 14 days after the day on which a notice under section 95A(1) or section 96(2) of this Act is served on the person objected to, the objection is withdrawn; or
  - (b) The name of the person who is objected to is removed from the roll under section 95B of this Act or retained on the roll under section 95C of this Act,—the Registrar shall refer the objection to a District Court, and shall notify the parties of the time and place appointed for the hearing.
- (2) Subject to subsection (3) of this section, where any party notifies the Registrar that the party is dissatisfied with a decision of the Registrar made under section 95B or section 95C of this Act, the Registrar shall refer the objection to a District Court, and shall notify the parties of the time and place appointed for the hearing.
- (3) Any notification given by a party under subsection (2) of this section shall be in writing and shall be given within 14 days after the day on which the party is notified by the Registrar

under section 95B or section 95C of this Act, as the case may be.

Section 95 was substituted, sections 95A to 95D were inserted, and section 96 was substituted, as from 6 December 1995, by section 28 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**96 Registrar's objection**

- (1) The Registrar for any district may at any time object to the name of any person being on the roll for the district on the ground that the person is not qualified to be registered as an elector of that district.
- (2) The Registrar shall forthwith give to—
  - (a) The person objected to; or
  - (b) The welfare guardian appointed for the person objected to under section 12(1) of the Protection of Personal and Property Rights Act 1988; or
  - (c) The attorney appointed by the person objected to under an enduring power of attorney,—notice in writing of the objection and of such particulars of the objection as are sufficient to inform the person objected to of the ground for the objection and the reason or reasons supporting the ground for objection.
- (3) The notice issued by the Registrar under subsection (2) of this section shall be served personally in accordance with the rules governing personal service contained in the District Courts Rules 1992.
- (4) The notice issued by the Registrar under subsection (1) of this section shall also inform the person objected to—
  - (a) That he or she may forward to the Registrar a statement signed by him or her giving reasons why his or her name should be retained on the roll; and
  - (b) That his or her name will be retained on the roll if he or she provides the Registrar with evidence that satisfies the Registrar that the name of the person objected to should be retained on the roll; and
  - (c) That if he or she fails to forward a statement to the Registrar within 14 days after the day on which that notice is served on the person objected to, the Registrar

will, under section 95B of this Act, remove from the roll the name of the person objected to.

- (5) Where, after making such inquiry as he or she thinks fit, or as the Chief Registrar directs, the Registrar is unable, after making at least 2 attempts to do so, to serve notice of objection on that person personally, the Registrar shall remove the name of that person from the roll and include the name in the dormant roll maintained under section 109 of this Act.
- (6) Nothing in this section affects the provisions of this Act as to the removal of names from the roll by the Registrar.

Compare: 1956 No 107 s 53; 1990 No 1 s 21(1)

Section 95 was substituted, sections 95A to 95D were inserted, and section 96 was substituted, as from 6 December 1995, by section 28 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (5) was amended, as from 18 March 2002, by section 30 Electoral Amendment Act 2002 (2002 No 1) by substituting the words “roll maintained” for the words “file created”.

#### **97 Procedure on reference of application or objection to District Court**

- (1) The following provisions of this section shall apply with respect to proceedings on the reference to a District Court of an objection under section 95 or section 96 of this Act.
- (2) The Registrar of Electors, any objector, and the person objected to may appear before the Court either in person or by some person appointed by him or her in writing or by a barrister or solicitor.
- (3) In the case of an objection, the person objected to may forward to the Registrar of the Court a statement signed by him or her giving reasons why his or her name should be retained on the roll, and the Court shall take any such statement into account in determining the objection.
- (4) If any person objected to does not either appear or forward a statement as aforesaid, the Court shall make an order that his or her name be removed from the roll.
- (5) Except as otherwise provided in this section, the name of any person objected to shall not be removed from the roll until the objection has been determined.

- (6) At the hearing of an objection no grounds of objection shall be taken into account except those specified in the particulars of the objection.
- (7) In any proceedings to which this section applies the Court may make such order as to costs as the Court thinks fit.
- (8) Subject to the provisions of this section, the ordinary rules of procedure of the Court shall apply.
- (9) The Registrar of Electors shall make any additions, deletions, and alterations to the roll that may be necessary to give effect to the order of the Court.

Compare: 1956 No 107 s 55; 1975 No 28 s 24(2)(b); 1980 No 29 s 5(8)

*Removal of names from roll and alterations to  
roll*

**98 Removal of names from roll by Registrar**

- (1) Subject to subsection (6) of this section, the Registrar shall remove from the roll—
  - (a) The name of every person who, consequent on a change in his or her place of residence,—
    - (i) Is not qualified to be registered as an elector of the district; and
    - (ii) Resides in, and is registered as an elector of, another district:
  - (b) The name of every person of whose identity the Registrar is satisfied and whose death has been notified to the Registrar—
    - (i) By any Registrar of Births and Deaths; or
    - (ii) By the father, mother, or spouse, civil union partner, or de facto partner of that person or by a sister or brother of that person:
  - (c) Where—
    - (i) An application for registration has not been marked or signed in accordance with section 85 or section 86 of this Act; and
    - (ii) There has been a failure to supply to the Registrar, in response to a request by the Registrar, a new application for registration marked or signed

- in accordance with section 85 or section 86 of this Act, as the case may require,—
- the name of the person whose application for registration has not been so marked or signed:
- (d) The name of every person who, as a result of an inquiry made at that person's address on the roll, the Registrar of Electors has reason to believe has ceased for 1 month or upwards to reside in the district:
  - (e) The name of every person whose name is entered on the Corrupt Practices List made out for any district:
  - (f) The name of every person whose disqualification under section 80 of this Act—
    - (i) Is duly certified to the Registrar; or
    - (ii) Is duly notified to the Registrar under section 81 of this Act:
  - (g) The name of every person who, being a Maori,—
    - (i) Has indicated his or her choice, pursuant to section 78 of this Act, to be registered as an elector for a different type of electoral district; or
    - (ii) Is registered in contravention of section 79 of this Act:
  - (h) Where the roll is for a Maori electoral district, the name of every person who is not a Maori:
  - (i) The name of every person who has been registered for the district—
    - (i) By mistake; or
    - (ii) By clerical error; or
    - (iii) As a result of false information.
- (2) Notwithstanding anything in this Act, the Registrar, on being satisfied that the name of any person has been omitted or removed from the roll—
- (a) By mistake; or
  - (b) By clerical error; or
  - (c) As a result of false information,—
- may place the name of that person on the roll at any time or restore the name of that person to the roll at any time.
- (3) In addition to other powers of alterations conferred by this Act, the Registrar may at any time, subject to subsection (6) of this section, alter the roll—

- (a) By correcting any mistake or omission in the particulars of the enrolment of a person:
  - (b) By striking out the superfluous entry when the name of a person appears more than once on the roll.
- (4) Where—
- (a) A person has been registered as an elector of a district other than the district in which the person should have been registered; and
  - (b) The person's name has, pursuant to subsection (1)(h) or subsection (1)(i) of this section, been removed from the roll of the district for which the person was correctly registered,—
- the Registrar of the district in which the person should have been registered may, subject to subsection (6) of this section, place that person's name on the roll for that district.
- (5) Where, pursuant to this section, the name of a person is removed from the roll in the period commencing on the day after writ day and ending on the day before polling day, the Registrar shall, on removing that name, enter it on a list to be known as the **list of post-writ day deletions**.
- (6) No alteration pursuant to this section shall be made to the roll for a district in the period beginning on polling day and ending on the day after the day of the return of the writ.

Compare: 1956 No 107 s 57; 1983 No 104 s 10(1); 1985 No 149 s 11; 1985 No 150 s 2(3); 1990 No 1 s 24(2)

Subsection (1)(b)(ii) was amended, as from 1 January 2002, by section 50 Human Rights Amendment Act 2001 (2001 No 96) by inserting the words "or de facto partner of the same or different sex" after the word "spouse".

Subsection (1)(b)(ii) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words ", civil union partner, or de facto partner" for the words "or de facto partner of the same or different sex".

Subsection (1)(c)(i) was amended, as from 18 March 2002, by section 31(1) Electoral Amendment Act 2002 (2002 No 1) by omitting the expression "section 83(5) or".

Subsection (1)(c)(ii) was amended, as from 18 March 2002, by section 31(2) Electoral Amendment Act 2002 (2002 No 1) by omitting the expression "section 83(5) or".

Subsection (1)(d) was substituted, as from 18 March 2002, by section 31(3) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was substituted, as from 6 December 1995, by section 30 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**99 Notice of alterations to roll**

- (1) Where, pursuant to any of the provisions of paragraphs (c) to (i) of section 98(1) of this Act, the name of a person is removed from the roll, the Registrar shall, in accordance with subsection (3) or subsection (4) of this section, deliver or send to that person, notice in writing of the removal of that person's name from the roll.
- (2) Where the name of a person (being a name which, pursuant to section 98(1)(h) or section 98(1)(i) of this Act, has been removed from a roll) is entered, pursuant to section 98(4) of this Act, on another roll, the Registrar who enters that person's name on that other roll shall, in accordance with subsection (3) or subsection (4) of this section, deliver or send to that person notice in writing of the entry of that person's name on that other roll.
- (3) Subject to subsection (4) of this section, the notice required by subsection (1) or subsection (2) of this section—
  - (a) Shall be delivered to the person personally or sent to the person by post; and
  - (b) Shall be so delivered or sent not later than 14 days after the date on which,—
    - (i) Where the notice is required by subsection (1) of this section, the person's name is removed; or
    - (ii) Where the notice is required by subsection (2) of this section, the person's name is entered.
- (4) Where the name of a person is removed or entered, as the case may be, in the period beginning on the day after writ day and ending on the day before polling day, the notice required by subsection (1) or subsection (2) of this section shall forthwith be delivered to that person personally.

Compare: 1956 No 107 s 57A; 1983 No 104 s 10(1)

Subsection (2) was amended, as from 6 December 1995, by section 31 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the expression "section 98(1)(h) or section 98(1)(i)" for the expression "section 98(1)(i)".

**100 Corrupt Practices List**

- (1) Where it is proved before the Registrar for any district that any person who is registered or who applies for registration as an

elector of the district has, within the immediately preceding period of 3 years,—

- (a) Been convicted of a corrupt practice; or
- (b) Been reported by the High Court in its report on the trial of an election petition to have been proved guilty of a corrupt practice,—

the Registrar shall enter the name, residence, and description of that person and particulars of the conviction or report on a list to be called the Corrupt Practices List.

- (2) The Registrar shall remove the name of every person from the Corrupt Practices List at the expiration of 3 years from the date of the conviction or report in respect of which his or her name is entered on the list, or sooner if so ordered by the High Court.
- (3) Whenever a main roll is printed for the district, a copy of the Corrupt Practices List for the district shall be appended to it and printed and published with it.
- (4) Whenever a supplementary roll is printed for the district, a copy of so much of the Corrupt Practices List as has not been printed with the main roll or any existing supplementary roll for the district shall be appended to the supplementary roll and printed and published with it.

Compare: 1956 No 107 s 59; 1980 No 29 s 5(7)

### *Electoral rolls*

#### **101 Electoral rolls**

- (1) Where a notice is gazetted under section 40(1)(b) or section 45(9)(b) of this Act, the Chief Registrar shall—
  - (a) Decide, on the basis of the then existing rolls, which of the electors are entitled to be registered as electors of each electoral district whose boundaries are fixed by the report to which the notice relates; and
  - (b) Compile for each electoral district whose boundaries are fixed by the report to which the notice relates a list of persons appearing to be entitled to be registered as electors of that electoral district (in this section called the “compiled list”).
- (2) For the purposes of any inquiry under section 83 of this Act which is considered before the dissolution or expiration of the

Parliament in existence when any list is compiled pursuant to subsection (1)(b) of this section, the compiled list shall be the electoral roll for the district to which it relates.

- (3) For the purposes of the printing of the main rolls and the supplementary rolls, each compiled list shall, if the Chief Registrar so directs, be the electoral roll for the district to which it relates.
- (4) Where a compiled list is, under subsection (2) or subsection (3) of this section, the electoral roll for the district to which it relates, that electoral roll shall come into force on the dissolution or expiry of the then existing Parliament.
- (5) The compiled lists shall be compiled immediately before—
  - (a) The next succeeding inquiry under section 83 of this Act; or
  - (b) The printing of the main rolls (where the Chief Registrar directs that, for the purposes of the printing of the main rolls and the supplementary rolls, each compiled list shall be the electoral roll for the district to which it relates),—whichever is the earlier.
- (6) Every roll to which subsection (4) applies, as it may be updated from time to time following an inquiry under section 83, continues in force until a new roll for the district is compiled and comes into force.
- (7) The Registrar shall keep every roll to which subsection (4) of this section applies up to date by making all such additions, alterations, and deletions as become necessary.

Compare: 1956 No 107 s 60; 1980 No 29 s 23(1); 1985 No 149 s 12; 1991 No 68 s 11

Subsection (2) was amended, as from 18 March 2002, by section 32(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “inquiry” for words “revision of the rolls”.

Subsection (5)(a) was amended, as from 18 March 2002, by section 32(2) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “inquiry” for words “revision of the rolls”.

Subsection (6) was substituted, as from 18 March 2002, by section 32(3) Electoral Amendment Act 2002 (2002 No 1).

**102 Maintenance of rolls being replaced**

- (1) Where the Chief Registrar has compiled the lists referred to in section 101(1)(b) of this Act, the respective Registrars of Electors shall not be obliged to keep up to date the rolls for the districts that were in existence immediately before the gazetting under section 40(1)(b) or section 45(9)(b) of this Act of the notice that immediately preceded the compilation of those lists.
- (2) Notwithstanding subsection (1) of this section, the Chief Registrar shall ensure that each Registrar of a district to which that subsection applies has available to him or her, until the roll for that district ceases to be in force, all information necessary to enable him or her to bring his or her roll up to date in the event of a by-election in that district (which information may include or consist of photocopies of original documents).
- (3) Where a by-election is to take place in a district to which subsection (1) of this section applies, the Registrar of that district shall cause an up to date composite roll for the district to be closed and printed as at writ day for the by-election.
- (4) Where a by-election has taken place in a district to which subsection (1) of this section applies, the Registrar of that district shall, after the time allowed for the filing of an election petition in respect of the by-election has expired or, where an election petition is filed in respect of that by-election, after that election petition has been finally disposed of, send to other Registrars of Electors such of the original applications for registration as electors held by him or her as the Chief Registrar specifies.

Compare: 1956 No 107 s 60A; 1980 No 29 s 23(1); 1985 No 149 s 13; 1991 No 68 s 12

**103 Rolls where Parliament dissolved after change of boundaries and before new rolls completed**

- (1) Where a Parliament is dissolved in the period between the gazetting of a notice under section 40(1)(b) or section 45(9)(b) of this Act and the completion of the compilation of the rolls pursuant to section 101 of this Act, the Chief Registrar shall—

- (a) Comply with paragraphs (a) and (b) of section 101(1) of this Act; and
  - (b) Direct which of the applications for registration as electors which constituted the rolls of the electoral districts that were defined immediately before the report to which that notice relates took effect shall be sent to the respective Registrars of the electoral districts fixed by that report.
- (2) Subject to subsection (3) of this section, each list compiled under section 101(1)(b) of this Act (as applied by subsection (1)(a) of this section) shall be the electoral roll for the district to which it relates and shall come into force as soon as it is compiled.
- (3) The applications for registration sent, pursuant to a direction under subsection (1)(b) of this section, to the Registrar of an electoral district shall, on being received by that Registrar, constitute the electoral roll for the district and the electoral roll specified in subsection (2) of this section shall (without its status as a main roll being affected) then cease to have effect as the electoral roll for the district.
- (4) Every electoral roll to which subsection (3) applies, as it may be updated from time to time following an inquiry under section 83, continues in force until a new electoral roll for the district is compiled and comes into force.
- (5) The Registrar shall keep every electoral roll to which subsection (2) or subsection (3) of this section applies up to date by making all such additions, alterations, and deletions as become necessary and any additions, alterations, and deletions made to an electoral roll to which subsection (2) of this section applies shall be incorporated, where necessary, in the electoral roll which supersedes it by virtue of subsection (3) of this section.

Compare: 1956 No 107 s 60B; 1980 No 29 s 23(1); 1991 No 68 s 13(1)

Subsection (4) was substituted, as from 18 March 2002, by section 33 Electoral Amendment Act 2002 (2002 No 1).

#### **104 Main roll to be printed**

- (1) The Registrar for every district shall, at least once in each year, cause to be printed a main roll for the district, which shall

contain a list of all persons whose names are lawfully on the electoral roll for the district on a date to be fixed for the closing of the main rolls.

- (2) The date to be fixed for the purposes of subsection (1) of this section shall,—
  - (a) In the case of a year in which Parliament is due to expire, be fixed by the Governor-General by Order in Council; and
  - (b) In the case of any other year, be fixed by the Chief Registrar by notice in the *Gazette*.
- (3) Every main roll printed for any district under this section shall be the main roll for the district until a new main roll is printed for the district.

Compare: 1956 No 107 s 61; 1980 No 29 s 25(1)

#### **105 Supplementary rolls to be printed**

- (1) The Registrar for every district shall from time to time cause to be printed a supplementary roll for the district, which shall contain a list of all persons whose names do not appear on the main roll or any existing supplementary roll for the district but are lawfully on the electoral roll for the district on a date to be fixed for the closing of that supplementary roll by the Chief Registrar of Electors:

Provided that a supplementary roll shall be printed as soon as may be after the issue of a writ for an election in the district, and the date for the closing of that roll shall be writ day.

- (2) Every supplementary roll printed for any district under this section shall be a supplementary roll for the district until a new main roll is printed for the district.

Compare: 1956 No 107 s 62; 1980 No 29 ss 5(7), 26

#### **106 Form of main roll and supplementary rolls**

- (1) Every main roll or supplementary roll printed for any district shall show the names, residences, and occupations (if any) of the persons included therein, arranged alphabetically in order of surnames.
- (2) The names on each page of the main roll and of every supplementary roll printed for any district shall be numbered con-

secutively, beginning with the number one in the case of the first name on each page.

- (3) The pages of every main roll or supplementary roll printed for any district shall be numbered consecutively, beginning with the number one in the case of the first page of the main roll and, in the case of a supplementary roll, with the number immediately following the number of the last page of the last printed roll of the district, whether main or supplementary.
- (4) The number appearing on the main roll or, as the case may be, on any supplementary roll printed for any district against the name of any elector, preceded by the number of the page on which his or her name appears, shall be deemed to be his or her number on the roll.
- (5) With the consent of the Government Statistician, the Registrar may divide the main electoral roll and every supplementary roll into such statistical subdivisions, as the Government Statistician approves.

Compare: 1956 No 107 s 63(1)-(5); 1960 No 4 s 2(1); 1975 No 28 s 28; 1980 No 29 s 5(7)

#### **107 Composite rolls**

- (1) The Registrar of Electors for any district may from time to time cause to be printed a composite roll for the district, which roll—
  - (a) Shall, subject to any additions, alterations, and deletions made to the electoral roll for the district, contain a list of—
    - (i) All persons whose names appear on the main roll for the district; and
    - (ii) All persons whose names appear on any existing supplementary roll for the district; and
    - (iii) All persons whose names do not appear on the main roll for the district or any existing supplementary roll for the district but are lawfully on the electoral roll for the district on a date to be fixed for the closing of that composite roll by the Chief Registrar of Electors; and

- (b) Shall, subject to paragraph (a) of this subsection, be printed in the manner prescribed by section 106 of this Act in respect of a main roll.
- (2) Notwithstanding anything in subsection (1) of this section, in the case of a by-election in any district, the Registrar of Electors for that district shall cause a composite roll for that district to be closed and printed as at writ day for the by-election.
- (3) Where the date for the closing of a composite roll for a district is writ day in relation to an election in that district, the Registrar of Electors—
  - (a) Shall cause the composite roll to be printed as soon as may be after the issue of the writ for the election; and
  - (b) Shall not be obliged to issue a supplementary roll for the district under the proviso to section 105(1) of this Act in relation to that election.
- (4) Where a composite roll for a district is printed under this section,—
  - (a) The composite roll shall, notwithstanding section 104(3) of this Act, be the main roll for the district until a new main roll is printed for the district under section 104(1) of this Act or a new composite roll is printed for the district under this section; and
  - (b) The main roll and any supplementary rolls that were in force for the district immediately before the date of the closing of the composite roll shall cease to be in force.
- (5) Nothing in this section—
  - (a) Limits the provisions of section 104(1) of this Act; or
  - (b) Prevents any main roll or supplementary roll that is no longer in force from being examined for the purpose of determining—
    - (i) Whether any person's name should appear on the main roll or any supplementary roll for the time being in force for any district; or
    - (ii) Whether any person is qualified to vote in any district as a special voter.

Compare: 1956 No 107 ss 63A, 63B; 1979 No 12 s 2; 1980 No 29 ss 5(8), 28

**108 Habitation indexes**  
The Chief Registrar—

- (a) May from time to time compile in respect of any electoral district a habitation index—
  - (i) Listing, in accordance with their residential addresses, the electors who reside in that electoral district; and
  - (ii) Showing, against the name of each elector, the number of the elector on the main roll, or, as the case may be, on any supplementary roll for that electoral district; and
- (b) Shall, as soon as practicable after the printing of a main roll for an electoral district, compile a habitation index under paragraph (a) of this section in respect of that district.

Compare: 1956 No 107 s 60C(1); 1980 No 29 s 24; 1983 No 104 s 11

#### **109 Dormant roll**

- (1) The Registrar must maintain a dormant roll showing the particulars of those persons whose names have been removed from the roll for the district—
  - (a) under section 83C; or
  - (b) as a result of the removal of the name of that person from the roll under section 95A(4) or section 96(5).
- (2) The Registrar must remove the name of a person from the dormant roll on the first occurrence of any of the following events:
  - (a) in the case of a person whose name has been removed from the electoral roll under section 83C, when the person registers as an elector of any district; or
  - (b) in the case of a person whose name has been removed from the electoral roll under section 95A(4) or section 96(5), when the person registers as an elector of any district; or
  - (c) in the case of a person who dies, when the Registrar is satisfied of the identity of the person and the death has been notified to the Registrar—
    - (i) by any Registrar of Births and Deaths; or
    - (ii) by the father, mother, spouse, civil union partner, de facto partner, sister, or brother of the person; or

- (iii) by the administrator of the estate of the person;  
or
  - (d) the expiration of the period of 3 years beginning with the date on which the person's name was placed on the dormant roll.
- (3) The Registrar must keep, for the purposes of the next election to be held in the district to which the dormant roll relates, a copy of the dormant roll as it exists on the day before polling day.
- (4) The Registrar must from time to time cause to be printed a computer-compiled list showing, in relation to each person whose name appears on the dormant roll, the person's name and place of residence.
- (5) The dormant roll as it exists on the day before polling day may be used for the purpose of determining whether any person is qualified, under section 60(c) or (d), to vote at any election held in the district to which the roll relates.

Subsections (1) to (4) were substituted, as from 6 December 1996, by section 29 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2)(b)(ii) was amended, as from 1 January 2002, by section 51 Human Rights Amendment Act 2001 (2001 No 96) by substituting the words "spouse, or de facto partner of the same or different sex" for the words "or spouse".

Section 109 was substituted, as from 18 March 2002, by section 34 Electoral Amendment Act 2002 (2002 No 1).

Subsection (2)(c)(ii) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by inserting the words "civil union partner, de facto partner," after the word "spouse,".

## **110 Public inspection of rolls, etc**

- (1) A copy or copies of—
  - (a) The main roll and of the supplementary rolls for any district; and
  - (b) The latest index compiled under section 108 of this Act in respect of the electoral district; and
  - (c) The most recent computer-compiled list printed pursuant to section 109(5) of this Act for the electoral district—

shall be kept for inspection by the public at the Office of the Registrar of Electors, and at such other places within the district as the Minister of Justice or the Chief Registrar directs.

- (2) Any direction given by the Minister of Justice or the Chief Registrar, as the case may be, may be given in respect of any or all of the categories of documents specified in subsection (1) of this section.
- (3) Any person may inspect at the Registrar's office, without payment, at any time between 9 am and 4 pm on any day on which the office is open for the transaction of business,—
  - (a) The documents specified in subsection (1) of this section:
  - (b) The most recent computer-compiled list which is held by the Registrar and which shows the names and particulars of the persons who are on the roll for the district:
  - (c) The names and particulars of any person whose name is on the electoral roll but not on the main roll or any supplementary roll or the most recent computer-compiled list to which paragraph (b) of this subsection applies:
  - (d) The application of any person who has applied to be registered as an elector of the district but who is prevented, by section 88 of this Act, from being registered as an elector of the district:
  - (e) His or her own application for registration as an elector:
  - (f) The application for registration of any person whose name is on the electoral roll if—
    - (i) That person consents to his or her application being inspected; or
    - (ii) The Registrar is satisfied that the inspection of the application is justified by a genuine and proper interest:
  - (g) The list of post-writ day deletions referred to in section 98(5) of this Act.
- (4) In the case of—
  - (a) The computer-compiled list printed pursuant to section 109(5) of this Act; and
  - (b) The computer-compiled list referred to in subsection (3)(b) of this section—

neither the power of inspection conferred by subsection (3) of this section nor the power to inspect the list when it is made available for public inspection under section 111 of this Act includes the power to copy the list.

- (5) Any person may, on paying the prescribed fee, obtain a copy of—
  - (a) The main or supplementary roll for a district;
  - (b) An index compiled under section 108 of this Act.
- (6) Regulations made under section 267 of this Act—
  - (a) May prescribe a scale of fees for the purposes of subsection (5) of this section; and
  - (b) Shall provide for any fee payable under subsection (5) of this section to be reduced wherever the copy of the roll or index is required for any purpose relating to an election or poll.
- (7) Where any person is entitled, pursuant to any provision of paragraphs (d) to (f) of subsection (3) of this section, to inspect any application, the Registrar shall produce that application for inspection not later than 2 working days after a request has been made.
- (8) Where land in a General electoral district is included within the boundaries of a Maori electoral district, a copy of the most recent computer-compiled list printed pursuant to section 109(5) of this Act in respect of the Maori electoral district shall be kept open for inspection by the public at the office of the Registrar of the General electoral district as well as at the office of the Registrar of the Maori electoral district.

Compare: 1956 No 107 ss 60C(2)-(4), 63(6), 64(1), (2), (3)-(5), (7), 65AD(1), (3)-(6); 1960 No 4 s 2(1); 1975 No 28 s 28(2); 1980 No 29 s 5(7), 24, 29(1); 1983 No 104 s 12(1); 1985 No 150 ss 3(2), (4)(1); 1986 No 124 s 32(1); 1990 No 1 ss 25, 26(1)

### **111 Inspection of rolls at hui**

- (1) Subject to subsection (2) of this section, the Chief Registrar of Electors shall, at the request of any person, make available for public inspection, under the supervision of any Registrar of Electors or person nominated by the Chief Registrar, at any meeting or hui—

- (a) The main roll and the supplementary rolls kept for any district:
  - (b) The most recent computer-compiled list which is held by the Registrar of Electors for any district and which shows the names and particulars of the persons who are on the roll for the district:
  - (c) Any computer-compiled list printed pursuant to section 109(5) of this Act.
- (2) A request made under subsection (1) of this section shall not be granted unless the Chief Registrar of Electors is satisfied that a large number of persons are likely to attend the meeting or hui in respect of which the request is made.
- (3) Where a roll or list is made available for public inspection under subsection (1) of this section, the roll or list shall be made available at such times and places as the Chief Registrar of Electors thinks fit.

Compare: 1956 No 107 s 64(2A), (2B), (2C); 1985 No 150 s 3(1)

#### **111A Objectives of sections 111B to 111F**

The objectives of sections 111B to 111F are—

- (a) to enable specified electoral information in relation to any Maori elector, with the consent of that Maori elector, to be used to facilitate the establishment and maintenance of accurate and comprehensive registers of iwi affiliations; and
- (b) to ensure that registers of iwi affiliations are established and maintained by a body which—
  - (i) is accountable to the organisations to which it is authorised to supply information; and
  - (ii) is financially viable and well managed; and
  - (iii) manages information in compliance with the requirements of this Act and the Privacy Act 1993; and
  - (iv) makes iwi affiliation information available to iwi organisations and other Maori organisations at a reasonable cost; and
  - (v) except as required for the purpose of establishing and maintaining the register or registers of iwi af-

- filiations, does not create or maintain information on whakapapa; and
- (c) to enable information from a register of iwi affiliations to be supplied to iwi organisations and other Maori organisations for the purposes of those organisations; and
  - (d) to leave unaffected—
    - (i) any right of an iwi organisation or other Maori organisation or court to determine whether any person claiming affiliation with the organisation is so affiliated; or
    - (ii) any right of a person to claim an affiliation with a particular iwi organisation or other Maori organisation or to approach the iwi organisation or other Maori organisation with which that person claims affiliation.

Sections 111A to 111F were inserted, as from 10 November 2003, by section 35 Electoral Amendment Act 2002 (2002 No 1). *See* clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

#### **111B Interpretation of terms in sections 111C to 111F**

For the purposes of sections 111C to 111F,—

**designated body** means the person or body of persons from time to time designated under section 111E

**Maori elector** means a person registered as an elector who has given written notice to a Registrar that the person is of Maori descent

**register of iwi affiliations** means a list or lists of persons of Maori descent and their iwi affiliations, together with the information described in section 111C(2) in respect of those persons.

Sections 111A to 111F were inserted, as from 10 November 2003, by section 35 Electoral Amendment Act 2002 (2002 No 1). *See* clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

#### **111C Chief Registrar may seek consent of Maori electors to supply of information to designated body**

- (1) The Chief Registrar may seek the consent of any Maori elector to the supply by the Chief Registrar from time to time of the

particulars described in subsection (2) to the designated body for the purpose of establishing and maintaining a register or registers of iwi affiliations.

- (2) The particulars referred to in subsection (1) are—
  - (a) the elector's name, including first names, surname, and preferred honorific (if any):
  - (b) the elector's postal address:
  - (c) the elector's date of birth:
  - (d) any randomly generated number assigned to that elector by the Chief Registrar.
- (3) The Chief Registrar may ask a Maori elector—
  - (a) whether the Maori elector consents to the supply of his or her iwi affiliation information to the designated body for the purpose of establishing and maintaining a register or registers of iwi affiliations; and
  - (b) if the answer under paragraph (a) is in the affirmative,—
    - (i) to give his or her iwi affiliation information; and
    - (ii) if the elector wishes, to specify the iwi organisation or organisations or other Maori organisation or organisations to which the elector's iwi affiliation information may be supplied by the designated body.
- (4) Despite subsections (1) and (3), the Chief Registrar must not seek the consent under this section of a person in respect of whom the Chief Registrar has given a direction under section 115.
- (5) If the Chief Registrar seeks the consent of a person under this section, the Chief Registrar must advise the person of the provisions of section 111D(4) and section 111F(1) to (4).
- (6) If the Chief Registrar seeks the consent of a person under subsection (1), the Chief Registrar must advise the person that a consent given under that subsection may be withdrawn at any time.
- (7) The Chief Registrar—
  - (a) may hold iwi affiliation information obtained in response to a request under subsection (3) only for such time as is reasonable for the purpose of forwarding that information to the designated body; and

- (b) must not retain any of that iwi affiliation information.

Sections 111A to 111F were inserted, as from 10 November 2003, by section 35 Electoral Amendment Act 2002 (2002 No 1). See clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

**111D Chief Registrar may supply information to designated body**

- (1) The Chief Registrar may supply the information described in subsection (2) to the designated body if—
- (a) the Chief Registrar has obtained the consent of a Maori elector under section 111C(1) (and that consent has not been withdrawn); and
  - (b) the Chief Registrar has under section 111C(3) obtained the consent of a Maori elector to the supply of the iwi affiliation information of that elector.
- (2) The information referred to in subsection (1) is—
- (a) the particulars of the elector described in section 111C(2); and
  - (b) the elector's iwi affiliation information; and
  - (c) if, under section 111C(3)(b)(ii), the elector specified a particular organisation or organisations to which the iwi affiliation information may be supplied, the name of that organisation or those organisations.
- (3) The Chief Registrar may charge a reasonable fee for the supply of information to the designated body under this section.
- (4) Information supplied under this section is supplied for the purpose of enabling the designated body to—
- (a) establish and maintain a register or registers of iwi affiliations; and
  - (b) supply the information on that register or registers to any organisation to which it is authorised to supply that information under section 111F.
- (5) Except as required for the purpose described in subsection (4), the designated body must not use the information supplied to it under this section to create or maintain information on the whakapapa of any Maori elector.

Sections 111A to 111F were inserted, as from 10 November 2003, by section 35 Electoral Amendment Act 2002 (2002 No 1). See clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

**111E Ministers of Justice and Maori Affairs may designate body to receive information**

- (1) The Minister of Justice and the Minister of Maori Affairs may, by notice in the *Gazette*, designate any person or body of persons (whether corporate or unincorporate) as suitable to receive the information described in subsection (2) for the purpose of establishing and maintaining a register or registers of iwi affiliations.
- (2) The information referred to in subsection (1) is—
  - (a) information described in section 111C(2); and
  - (b) information described in section 111C(3)(b).
- (3) The Minister of Justice and the Minister of Maori Affairs must not designate a person or body of persons under subsection (1) unless the Ministers are satisfied that—
  - (a) the person or body of persons has adequate procedures in place to ensure that it is accountable to the organisations to which it is authorised to supply information under section 111F; and
  - (b) the person or body of persons is financially viable and can demonstrate prudent and adequate management policies and practices, including in matters of financial management; and
  - (c) the person's or body of persons' information management policies and practices are adequate to ensure compliance with this Act and the Privacy Act 1993; and
  - (d) the person or body of persons has the ability to fund the establishment and maintenance of the register of iwi affiliations; and
  - (e) the person or body of persons meets any other criteria that may be specified in regulations made under section 267(c).
- (4) The Minister of Justice and the Minister of Maori Affairs may, at any time, by notice in the *Gazette*, revoke a designation made under subsection (1).

Sections 111A to 111F were inserted, as from 10 November 2003, by section 35 Electoral Amendment Act 2002 (2002 No 1). See clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

**111F Designated body may supply information from register of iwi affiliations to iwi organisation and other Maori organisation**

- (1) The designated body may supply the information in relation to a particular Maori elector that is held on a register of iwi affiliations—
  - (a) if the Maori elector has specified a particular organisation or organisations under section 111C(3)(b)(ii), to that organisation or organisations; or
  - (b) in any other case, to any iwi organisation or organisations or other Maori organisation or organisations that the designated body is satisfied represents the iwi to which the Maori elector claims an affiliation.
- (2) If the designated body is satisfied that iwi affiliation information given by a Maori elector under section 111C(3)(b)(i) contains a spelling error or other obvious mistake, but the designated body is satisfied that it is clear to which iwi the Maori elector was referring, the designated body may apply subsection (1) as if the elector had specified that iwi.
- (3) If the designated body is satisfied that the name of an organisation or organisations specified by a Maori elector under section 111C(3)(b)(ii) contains a spelling error or other obvious mistake, but the designated body is satisfied that it is clear to which organisation or organisations the elector was referring, the designated body may apply subsection (1) as if the elector had specified that organisation or organisations.
- (4) Information supplied under this section is supplied for the purposes of the iwi organisation or other Maori organisation to which it is supplied.
- (5) Any fee charged by the designated body for the supply of information under this section must be a reasonable fee.

Sections 111A to 111F were inserted, as from 10 November 2003, by section 35 Electoral Amendment Act 2002 (2002 No 1). *See* clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

**112 Supply of information on age and Maori descent**

- (1) Any person may, in the manner specified in subsection (3) of this section, request the Chief Registrar to provide to that person,—

- (a) For the purposes of research conducted by that person on a topic that relates to a scientific matter,—
  - (i) A list of electors in a particular age group as defined in section 114(8) of this Act; or
  - (ii) A list of electors of Maori descent; or
- (b) For the purposes of research being conducted by that person on a topic that relates to human health,—
  - (i) A list of electors whose birthdays fall within a period of 12 months; or
  - (ii) A list of electors of Maori descent.
- (2) Every list supplied pursuant to a request under subsection (1) of this section shall specify, in relation to each elector on that list, his or her name, postal address, residential address, occupation (if any), preferred honorific (if any), and mesh-block.
- (3) Any request made under subsection (1) of this section may seek information about electors appearing to be entitled to vote in—
  - (a) One or more named electoral districts; or
  - (b) All electoral districts; or
  - (c) One or more named regions or constituencies of a region; or
  - (d) One or more named territorial authority districts; or
  - (e) One or more named wards; or
  - (f) One or more named community board areas;—but shall not include any request for a random sample of electors.
- (4) Every list supplied following a request under subsection (1) may be supplied in the form of a computer-compiled list or in electronic form.
- (5) The Chief Registrar shall comply with a request under subsection (1) of this section if—
  - (a) The person requesting the list pays the prescribed fee; and
  - (b) The person requesting the list supplies a statement that the list is required for research being conducted by that person on a topic which is specified in the statement and which relates to a scientific matter or to human health; and

- (c) The statement supplied under paragraph (b) of this subsection is signed by the chief executive of any department, organisation, or local authority to which the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987 applies; and
- (d) The person requesting the list states in a form to be provided by the Chief Registrar that the list is required for the purpose of that person's research and will not be used for any other purpose; and
- (e) The Chief Registrar is satisfied that the list should be provided; and
- (f) if the person requesting the list requires the list to be supplied in electronic form, that person supplies to the Chief Registrar a storage medium for that electronic information that complies with the prescribed requirements.

Compare: 1956 No 107 s 64BA; 1990 No 1 s 28(1)

Subsection (2) was amended, as from 6 December 1995, by section 32 Electoral Amendment Act (No 2) 1995 (1995 No 61) by inserting the words "preferred honorific (if any),".

Subsection (4) was substituted, as from 18 March 2002, by section 36(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (5)(f) was substituted, as from 18 March 2002, by section 36(2) Electoral Amendment Act 2002 (2002 No 1).

### **113 Supply of computer-compiled lists and electronic storage media to local authorities**

- (1) Subject to this section, if an electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) wishes to obtain specified information for the purposes of any election, by-election, or poll that is required by or under any Act, the electoral official is entitled to obtain from the Chief Registrar a computer-compiled list or electronic storage medium containing that information.
- (2) For the avoidance of doubt, it is hereby declared that subsection (1) of this section shall not apply where the list or information is required for the purpose of determining whether or not there has been a valid demand for a poll or a survey of electors.

- (3) The specified information, which shall be provided free of charge, shall be provided in accordance with any regulations made pursuant to section 267 of this Act.
- (4) Any electronic storage medium supplied by the Chief Registrar must be returned to the Chief Registrar as soon as practicable after use.
- (5) Where the specified information is requested for a by-election or poll to be conducted at some time other than a triennial general election, the Chief Registrar may supply only such of the specified information as is relevant to the conduct of the by-election or poll.
- (6) If an electoral official requires specified information for any purpose other than a purpose specified in subsection (1), and the latest information already available to the electoral official is not suitable for the purpose, the electoral official may make a special request to the Chief Registrar for the information, which must be supplied subject to, and in accordance with, any regulations made under section 267.
- (7)
- (8) Regulations made under section section 267 may prescribe—
  - (a) fees for the supply of an electronic storage medium by the Chief Registrar in any case; and
  - (b) fees for providing information under this section on an electronic storage medium in any case to which subsection (1) does not apply.
- (9) If an electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) wishes to obtain, for the purposes of compiling a roll of electors for the local authority and for no other purpose, any specified information, the Chief Registrar may, in accordance with regulations made under this Act, give that electoral official, on payment of the prescribed fee, a computer-compiled list or electronic storage medium containing that information.
- (9A) Any electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) may, on payment of the prescribed fee, and in accordance with regulations made under this Act, obtain from the Chief Registrar of Electors a computer-compiled list or electronic storage medium contain-

ing specified information, for the purpose of conducting an election for any body, where the Chief Registrar is satisfied that—

- (a) The body is established by statute or is a corporate or unincorporate body established by a local authority or local authorities or is a body contracted by a local authority or local authorities to provide services to some or all local residents or is a body that provides health services or disability support services or electricity supply or is a trust that owns shares in a body or bodies involved in electricity supply to some or all local residents; and
  - (b) The body has in place procedures for the democratic conduct of its elections; and
  - (c) It is in the public interest that the election be conducted by a local authority.
- (9B) Nothing in subsection (9A) or subsection (9D) of this section requires a local authority to conduct an election on behalf of any other body but, where a local authority conducts an election for another body, the local authority may impose a charge in respect of the conduct of the election.
- (9C) Where any officer of a body designated by notice in writing pursuant to subsection (9D) of this section wishes to obtain, for the purpose of compiling a roll of electors for an election and for no other purpose, any specified information, the Chief Registrar may, in accordance with regulations made under this Act, give that officer, on payment of the prescribed fee, a computer-compiled list or electronic storage medium containing that information.
- (9D) The Minister may, by notice in writing, designate bodies for the purposes of subsection (9C) of this section if the Minister is satisfied that—
- (a) The body has in place procedures for the democratic conduct of its elections; and
  - (b) It is in the public interest that the elections are conducted using the specified information.
- (10) For the purposes of this section, the term **specified information** means, in respect of each elector appearing to reside in the appropriate area and entitled to vote in the election, by-elec-

tion, or poll, so much of the following information as is requested by an electoral officer or electoral official or designated body:

- (a) The elector's name, including first names, surname, and preferred honorific (if any):
- (b) The elector's residential address and postal address (if different):
- (c) The elector's occupation (if any):
- (d) The elector's electoral district (whether Maori or General):
- (e) Statistical meshblock details:
- (f) A description of each—
  - (i) Region or constituency of a region; or
  - (ii) Territorial authority district; or
  - (iii) Ward; or
  - (iv) Community board area; or
  - (v) Other local authority and, where appropriate, local authority subdivision,—

in respect of which the elector appears to be entitled to vote.

Compare: 1956 No 107 s 64A; 1989 No 31 s 4(1); 1990 No 1 s 27

The heading to section 113 was substituted, as from 18 March 2002, by section 37(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (1) was amended, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35) by substituting the words "electoral officer" for the words "principal administrative officer". See sections 153 to 157 of that Act as to the transitional provisions. See clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

Subsection (1) was substituted, as from 18 March 2002, by section 37(2) Electoral Amendment Act 2002 (2002 No 1).

Subsection (1) was substituted, as from 25 December 2002, by section 52 Local Electoral Amendment Act 2002 (2002 No 85).

Subsection (4) was substituted, as from 18 March 2002, by section 37(3) Electoral Amendment Act 2002 (2002 No 1).

Subsection (6) was substituted, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). See sections 153 to 157 of that Act as to the transitional provisions. See clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

Subsection (6) was amended, as from 25 December 2002, by section 52 Local Electoral Amendment Act 2002 (2002 No 85) by substituting the words "electoral official" for the words "electoral officer" wherever they occur.

Subsection (7) was repealed, as from 18 March 2002, by section 37(4) Electoral Amendment Act 2002 (2002 No 1).

Subsection (8) was substituted, as from 18 March 2002, by section 37(5) Electoral Amendment Act 2002 (2002 No 1).

Subsection (9) was substituted, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

Subsection (9) was amended, as from 25 December 2002, by section 52 Local Electoral Amendment Act 2002 (2002 No 85) by omitting the words “acting on behalf of that local authority”.

Subsections (9A) to (9D) were inserted, as from 6 December 1995, by section 33(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (9A) was amended, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35) by substituting the words “Any electoral official” for the words “Any officer”. *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

Subsection (9A) was amended, as from 18 March 2002, by section 37(6) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “electronic storage medium” for the words “computer tape, disk, or diskette”.

Subsection (9A) was amended, as from 25 December 2002, by section 52 Local Electoral Amendment Act 2002 (2002 No 85) by substituting the words “(as defined in section 5 of the Local Electoral Act 2001)” for the words “(as defined in section 2 of the Local Government Act 1974)”.

Subsection (9A)(a) was amended, as from 1 January 2001, by section 111(1) New Zealand Public Health and Disability Act 2000 (2000 No 91) by substituting the words “health services or disability support services” for the words “health or disability services”.

Subsection (9C) was amended, as from 18 March 2002, by section 37(6) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “electronic storage medium” for the words “computer tape, disk, or diskette”.

Subsection (10) was substituted, as from 6 December 1995, by section 33(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (10) was amended, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35) by substituting the words “an electoral officer or electoral official” for the words “the principal administrative officer”. *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

## **114 Supply of electoral information to candidates, political parties, and members of Parliament**

- (1) The Chief Registrar must supply to a person specified in subsection (2), on a request made in accordance with this section by that person,—
  - (a) the information described in subsection (3); and
  - (b) if the person so requests, the information described in subsection (4).

- (2) The persons referred to in subsection (1) are—
- (a) any candidate or any person acting on behalf of a political party who wishes to obtain the information for the purposes of the candidate or the political party:
  - (b) any candidate or any person acting on behalf of a political party who wishes to obtain the information for the purposes of the candidate or the political party in connection with any local authority elections:
  - (c) a member of Parliament or person acting on behalf of a member of Parliament who wishes to obtain the information for the purposes of the member of Parliament:
  - (d) any Commissioner or officer of the Electoral Commission for the purposes of assisting the Electoral Commission to exercise its functions under section 5(d):
  - (e) any other person charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand and relating to electoral matters or the conduct of any general election or by-election.
- (3) The information referred to in subsection (1)(a) is—
- (a) the names, residential addresses, occupations (if any), preferred honorifics (if any), meshblock, and postal addresses of, and any randomly generated number assigned by the Chief Registrar to, any or all of the following persons:
    - (i) the electors of an electoral district:
    - (ii) the persons whose names are on the dormant roll for an electoral district:
    - (iii) the electors of an electoral district who were registered as electors for that district on or after the date fixed for the closing of the main roll for the district pursuant to section 104, or on or after a date nominated by the applicant, that date being not earlier than the date on which the roll was last closed for printing:
    - (iv) the electors of an electoral district whose names have been removed from the electoral roll for that district on or after a date nominated by the

- applicant, that date being not earlier than the date on which the roll was last closed for printing; and
- (b) if the person to whom the information is being supplied is one described in subsection (2)(b), the electors of a local authority district or subdivision of a local authority district.
- (4) The information referred to in subsection (1)(b) is,—
- (a) whether the elector is of Maori descent; or
  - (b) a list of electors of Maori descent; or
  - (c) the age group within which the elector appears; or
  - (d) a list of electors in a particular age group; or
  - (e) any or all of the above.
- (5) Information supplied by the Chief Registrar under this section may be supplied—
- (a) in the form of a computer-compiled list; or
  - (b) in electronic form, including by the giving of remote access to the information by electronic means.
- (6) A request for information from a person described in subsection (2)(a), (b), or (c) must,—
- (a) if the information is sought in electronic form supplied on an electronic storage medium, be accompanied by a storage medium for that electronic information; and
  - (b) be accompanied by the prescribed fee; and
  - (c) be accompanied by a statement, on a form to be provided by the Chief Registrar, by the person seeking the information that the information is required for purposes permitted by this section and will not be used for any purpose other than those for which it is supplied.
- (7) A request for information from a person described in subsection (2)(d) or (e) must, if the information is sought in electronic form supplied on an electronic storage medium, be accompanied by a storage medium for that electronic information.
- (8) Regulations made under section 267 may prescribe fees, or a scale of fees, for the supply of computer-compiled lists and electronic storage media by the Chief Registrar to any person under this section, and for the giving of remote access to the information by electronic means.
- (9) For the purposes of this section and section 112(1)(a),—

**age group** means, in relation to electors, those whose birth-days fall within a period of 5 years (being the first half or the second half of a decade)

**decade** means a period of 10 years that begins with a year that is divisible, without remainder, by 10.

Section 114 was substituted, as from 6 December 1995, by section 34 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 114 was further substituted, as from 18 March 2002, by section 38 Electoral Amendment Act 2002 (2002 No 1).

#### **114A General provision concerning supply of information by Chief Registrar in electronic form**

If the Chief Registrar is required in accordance with this Act to supply information in electronic form, the Chief Registrar is only required to supply that information in a form, or using a medium, that is compatible with computer systems being used by the Chief Registrar at the time.

Section 114A was inserted, as from 18 March 2002, by section 39 Electoral Amendment Act 2002 (2002 No 1).

#### **115 Unpublished names**

- (1) Notwithstanding sections 101, 104, 105, 107, 108, and 110(3)(c) and (d) of this Act, where the Chief Registrar is satisfied, on the application of any person, that the publication of that person's name would be prejudicial to the personal safety of that person or his or her family, the Chief Registrar may direct that—
- (a) The name, residence, and occupation of that person shall not be published in any main or supplementary roll or in any list or index that may be available for inspection by the public; and
  - (b) The name and particulars of that person shall not be available for inspection under section 110(3)(c) of this Act; and
  - (c) The application for registration of that person shall not be available for inspection under section 110(3)(d) of this Act.

- (2) Without limiting the discretion conferred on the Chief Registrar by subsection (1) of this section, he or she may on the production of—
- (a) A protection order that is in force under the Domestic Violence Act 1995 in respect of any person; or
  - (aa) A restraining order that is in force under the Harassment Act 1997 in respect of any person; or
  - (b) A statutory declaration from a member of the Police to the effect that he or she believes that the personal safety of a person or of a person's family could be prejudiced by the publication of that person's name,—
- exercise in respect of that person's name, and without further evidence or inquiry, the power conferred on the Chief Registrar by that subsection.

Compare: 1956 No 107 s 62A; 1980 No 29 s 27

Subsection (2)(a) was substituted, as from 1 July 1996, by section 132 Domestic Violence Act 1995 (1995 No 86).

Subsection (2)(aa) was inserted, as from 1 January 1998, by section 45 Harassment Act 1997 (1997 No 92).

### *Offences*

#### **116 Offences relating to use of electoral information**

- (1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information supplied in electronic form, or derived from information supplied in electronic form, under section 112, 113, or 114 for a purpose other than a purpose authorised by those sections.
- (2) Every person who commits an offence against this section is liable on summary conviction,—
- (a) In the case of information supplied, received, or used for a commercial purpose, to a fine not exceeding \$50,000; or
  - (b) In any other case, to a fine not exceeding \$10,000.

Compare: 1956 No 107 s 64BB; 1990 No 1 s 28(1)

Subsection (1) was substituted, as from 18 March 2002, by section 40 Electoral Amendment Act 2002 (2002 No 1).

**117 Offences in respect of manipulating or processing electoral information**

- (1) Every person commits an offence who processes, manipulates, or otherwise changes by optical scanning or other electronic or mechanical means, any information obtained pursuant to section 112 or section 113 or section 114 of this Act or contained in any habitation index or any printed roll, in such a way as to produce that information or part of that information in a different form from that in which it was supplied under this Act.
- (2) It shall not be an offence against subsection (1) of this section to process, manipulate, or otherwise change information obtained pursuant to any of the provisions of sections 112 to 114 of this Act into a different form if—
  - (a) The processing or manipulation is done, or the change is effected, by or on behalf of the person by whom the information was obtained; and
  - (b) The information, in its different form, is used only for purposes authorised by the provision under which it was obtained.
- (3) It shall not be an offence against subsection (1) of this section to process, manipulate, or otherwise change information obtained pursuant to any of the provisions of sections 112 to 114 of this Act or contained in any habitation index or any printed roll into a different form if the information was obtained under this Act more than 10 years before the date on which the processing or manipulation is done or the change is effected.
- (4) Every person who commits a breach of subsection (1) of this section is liable on summary conviction to a fine not exceeding \$50,000.
- (5) Every person commits an offence who—
  - (a) Uses for any purpose; or
  - (b) Supplies to any person—any information the production of which contravenes subsection (1) of this section.
- (6) Every person who commits a breach of subsection (5) of this section is liable on summary conviction,—
  - (a) Where the use or supply was for a commercial purpose, to a fine not exceeding \$50,000; or

- (b) Where the use or supply was for any other purpose, to a fine not exceeding \$10,000.

Compare: 1956 No 107 s 64BC; 1990 No 1 s 28(1)

**117A Offence relating to misuse of electoral information supplied under section 111D**

- (1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information of a kind described in section 111C(2) that is provided by, or derived from information provided by, the Chief Registrar under section 111D, for any purpose other than a purpose authorised by section 111D(4) or section 111F(4).
- (2) Every person who commits an offence against this section is liable on summary conviction,—
- (a) in the case of information supplied, received, or used for a commercial purpose, to a fine not exceeding \$50,000; or
- (b) in any other case, to a fine not exceeding \$10,000.

Section 117A was inserted, as from 10 November 2003, by section 41 Electoral Amendment Act 2002 (2002 No 1). *See* clause 2 Electoral Amendment Act Commencement Order 2003 (SR 2003/312).

**118 False statements or declarations**

Every person who knowingly and wilfully makes a false statement in any application, certificate, or declaration for the purposes of this Part of this Act shall be liable on summary conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months.

Compare: 1956 No 107 s 66; 1975 No 28 s 46; 1990 No 1 s 31(1)

**119 Wilfully misleading Registrar**

Every person shall for each offence be liable on summary conviction to a fine not exceeding \$2,000 who—

- (a) Wilfully misleads any Registrar in the compilation of any roll or list, or wilfully enters or causes to be entered thereon any false or fictitious name or qualification or the name of any person whom he or she knows to be dead:

- (b) Signs the name of any person, whether requested to do so or not, or any false or fictitious name to any form of application or objection for the purposes of this Part of this Act either as applicant, objector, or witness:
- (c) Signs his or her name as witness to any signature upon any such form of application or objection without either seeing the signature written or hearing the person signing declare that the signature is in his or her own handwriting and that the name so signed is his or her own proper name.

Compare: 1956 No 107 s 67(1); 1980 No 29 s 5(7); 1990 No 1 s 32(1)

#### **120 Duty to report suspected offences**

Where the Registrar believes that any person has committed an offence against section 119 of this Act, he or she shall report the facts on which that belief is based to the Police.

Compare: 1956 No 107 s 67(2); 1983 No 104 s 15

#### **121 Failure to deliver application**

Every person shall be liable on summary conviction to a fine not exceeding \$2,000 who, having obtained possession of an application for registration signed by any other person for the purpose of being delivered to the Registrar for registration, wilfully fails so to deliver it so that the applicant's name is not entered on the roll.

Compare: 1956 No 107 s 68; 1980 No 29 s 5(7); 1990 No 1 s 33(1)

### *Miscellaneous provisions*

#### **122 Assistance to be given to Registrar**

- (1) All members of the Police—
  - (a) Shall, at the request of the Registrar, assist the Registrar by informing him or her of the name of any person whom they have reason to believe is qualified to be registered as an elector but is not registered, or is registered but is not qualified to be registered; and
  - (b) Shall give the Registrar any information the Registrar requests relating to the qualifications of any person for registration as an elector.

- (2) All members of the Police shall also assist the Registrar by making such inquiries and obtaining such information as he or she requests.

Compare: 1956 No 107 s 51; 1980 No 29 s 5(7)

### **123 Copies of rolls for Returning Officer**

- (1) The Registrar shall supply to the Returning Officer for the district—

- (a) As many copies as he or she may require of the main roll and the supplementary rolls, showing all deletions (except deletions made in the period beginning on the day after writ day and ending on the day before polling day) from the electoral roll and certified correct by the Registrar; and
- (b) A copy of the list of post-writ day deletions referred to in section 98(5) of this Act.

- (2) Despite section 106, the Chief Registrar may, with the agreement of the Chief Electoral Officer, direct Registrars to modify the form of any rolls supplied under this section if that is necessary to facilitate the use of technology for the scrutiny of the rolls under this Act.

Compare: 1956 No 107 s 65; 1983 No 104 s 14(1); 1990 No 1 s 29

Subsection (2) was inserted, as from 18 March 2002, by section 42 Electoral Amendment Act 2002 (2002 No 1).

### **124 Power to destroy records**

- (1) Subject to subsection (3), the Registrar may destroy any of the records described in subsection (2) if—

- (a) the Registrar considers that the records are no longer required; and
- (b) 2 general elections have taken place since the records were made.

- (2) The records referred to in subsection (1) are records held by the Registrar, being—

- (a) applications for registration as electors; and
- (b) forms returned following an inquiry under section 83; and
- (c) records forming part of the dormant roll maintained under section 109(1).

- (3) Nothing in this section authorises any person to destroy any records if he or she has reason to believe that those records are relevant to an election petition or that the time for bringing an election petition to which those records may be relevant has not expired.

Section 124 was substituted, as from 18 March 2002, by section 43 Electoral Amendment Act 2002 (2002 No 1).

## **Part 6**

### **Elections**

#### *General elections*

#### **125 Writ for general election**

Whenever Parliament is dissolved or expires, the Governor-General must, not later than 7 days after the dissolution or expiration, issue a writ in form 3 to the Chief Electoral Officer requiring the Chief Electoral Officer to make all necessary arrangements for the conduct of a general election.

Section 125 was substituted, as from 28 February 2002, by section 44 Electoral Amendment Act 2002 (2002 No 1).

#### **126 Writs for general election**

*[Repealed]*

Section 126 was repealed, as from 28 February 2002, by section 44 Electoral Amendment Act 2002 (2002 No 1).

#### **127 Election of list candidates**

- (1) At any general election any Secretary of a political party that is registered under Part 4 of this Act may forward to the Chief Electoral Officer a list of candidates for election to the seats reserved for those members of Parliament elected from lists submitted under this section.
- (2) A list submitted under this section shall be in form 4 and shall list candidates in order of the party's preference commencing with the first in order of preference and ending with the last.
- (3) Every list submitted under this section, and the declaration required by subsection (3A),—

- (a) must be submitted to the Chief Electoral Officer not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates; and
  - (b) may be submitted by hand, post, or facsimile transmission.
- (3A) Every list submitted under this section must be accompanied by a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, that must—
  - (a) declare that the secretary is satisfied that each person named on the list submitted under this section is qualified under this Act to be a candidate; and
  - (b) state whether the party is a party in respect of which there are 1 or more component parties; and
  - (c) if the party has 1 or more component parties, state the name of each component party.
- (4) Where a Secretary of any political party submits a list under this section, he or she shall at the same time forward, in respect of each person named on the list, the person's consent to the inclusion of his or her name on that list.
- (5) Every consent submitted under subsection (4)—
  - (a) must be in a form provided by the Chief Electoral Officer; and
  - (b) must be signed by the person concerned; and
  - (c) may be submitted by hand, post, or facsimile transmission.
- (6) The Chief Electoral Officer shall give a receipt in writing for every list accepted by the Chief Electoral Officer.
- (7) Where a list under this section is submitted by a political party that has a logo registered under section 67A of this Act, the Secretary of that political party may submit with the list a copy of the logo so registered for inclusion—
  - (a) On the left-hand side of the ballot paper beside the name of that party on the party vote part of the ballot paper; and
  - (b) On the right-hand side of the ballot paper beside the name of any constituency candidate of that party (if any) on the electorate vote part of the ballot paper.

- (8) Every logo submitted under this section—
- (a) must be submitted to the Chief Electoral Officer not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates; and
  - (b) may be submitted by hand, post, or facsimile transmission.

Subsection (3) was substituted, as from 28 February 2002, by section 45(1) Electoral Amendment Act 2002 (2002 No 1).

It was proposed that subsection (3) was to be further amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “writ” for the word “writs”. This appears to be in error as this subsection was substituted by section 45(1) of that Act.

Subsection (3A) was inserted, as from 6 December 1995, by section 35(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (3A) was substituted, as from 28 February 2002, by section 45(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was amended, as from 17 May 2005, by section 3(1) Electoral Amendment Act 2005 (2005 No 50) by omitting the words “a copy of”.

Subsection (5) was substituted, as from 28 February 2002, by section 45(2) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was amended, as from 17 May 2005, by section 3(1) Electoral Amendment Act 2005 (2005 No 50) by omitting the words “a copy of”.

Subsection (5) was substituted, as from 17 May 2005, by section 3(2) Electoral Amendment Act 2005 (2005 No 50).

Subsections (7) and (8) were inserted, as from 6 December 1995, by section 35(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (8) was substituted, as from 28 February 2002, by section 45(3) Electoral Amendment Act 2002 (2002 No 1).

### **127A Deposit by party secretary**

- (1) If a secretary of a political party submits a list under section 127, he or she must lodge with the Chief Electoral Officer, no later than noon on nomination day, a deposit of \$1,000 (inclusive of goods and services tax).
- (2) The deposit must be in the form of a bank draft or bank cheque.
- (3) The deposit is forfeit and must be paid into the Crown Bank Account if the party neither—
  - (a) receives in total at least 0.5% of the total number of all party votes received by all the parties listed on the part of the ballot paper that relates to the party vote; nor
  - (b) wins a constituency seat.

- (4) In every other case the deposit must be returned to the secretary of the party on whose behalf the deposit is paid, but only after the Electoral Commission has received—
  - (a) a duly completed return under section 214C in respect of that party; and
  - (b) the auditor's report under section 214E that relates to that return.
- (5) For the purposes of subsection (3)(b), a party wins a constituency seat if—
  - (a) a constituency candidate for that party has his or her name endorsed on the writ under section 185 as a person declared to be elected as a member of Parliament; or
  - (b) a constituency candidate for a component party of that party (being a component party that is not listed on the part of the ballot paper that relates to the party vote but is, in accordance with the details held by the Chief Electoral Officer under any of the provisions of sections 127(3A) and 128A, a component party of that party) has his or her name endorsed on a writ under section 185 as a person declared to be elected as a member of Parliament.

Section 127A was inserted, as from 28 February 2002, by section 46 Electoral Amendment Act 2002 (2002 No 1).

## **128 Acceptance or rejection of lists by Chief Electoral Officer**

- (1) The Chief Electoral Officer must reject a list submitted under section 127—
  - (a) if the list is not submitted by a political party registered under Part 4; or
  - (b) if the list is not lodged with the Chief Electoral Officer by noon on nomination day; or
  - (c) if the list does not contain the name of at least 1 candidate; or
  - (d) if the list is not accompanied by the declaration required by section 127(3A); or
  - (e) if the deposit required by section 127A is not paid by noon on nomination day.
- (2) Where—

- (a) Any person named as a candidate on a list submitted under section 127 of this Act is not qualified both to be a candidate and to be elected a member of Parliament; or
- (b) The consent of any person named as a candidate on a list submitted under section 127 of this Act is not lodged in the required form with the Chief Electoral Officer not later than noon on nomination day,—
- the Chief Electoral Officer shall delete the name of that person from the list and the order of preference in the list shall be deemed to be amended accordingly.
- (3) If, after the deletion of any name or names of candidates from a list pursuant to subsection (2) of this section, there are no names of candidates left remaining on the list, the provisions of subsection (1)(c) of this section shall apply.

Subsection (1)(c) was substituted, and subsection (1)(d) was inserted, as from 6 December 1995, by section 36 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1) was substituted, as from 28 February 2002, by section 47 Electoral Amendment Act 2002 (2002 No 1).

### **128A Notice of change in component parties**

- (1) Where the list of any political party has been accepted by the Chief Electoral Officer under section 127(6) of this Act, it shall be the duty of the Secretary of that political party to notify the Chief Electoral Officer by a declaration in the manner provided for by section 9 of the Oaths and Declarations Act 1957 of any change occurring before polling day in the details recorded in the declaration made under section 127(3A) of this Act.
- (2) Every change to which subsection (1) of this section applies shall be notified under that subsection as soon as practicable after the time at which the change occurs.

Sections 128A to 128C were inserted, as from 6 December 1995, by section 37 Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **128B Supply of particulars of component parties to Electoral Commission**

- (1) The Chief Electoral Officer shall, as soon as practicable after receiving any declaration under section 127(3A) or section

128A of this Act forward to the Chief Executive of the Electoral Commission a copy of that declaration.

- (2) If the component parties of a political party listed in the copy of any declaration forwarded to the Chief Executive of the Electoral Commission under subsection (1) of this section differ from those recorded in the Register of Political Parties established by section 62(2) of this Act, the Chief Executive of the Electoral Commission—
- (a) Shall amend the register so that the component parties recorded in the register are the same as those recorded in the declaration made to the Chief Electoral Officer; and
  - (b) Shall, forthwith after amending the register under paragraph (a) of this subsection, publish in the *Gazette* notice of the amendment made under that paragraph.

Sections 128A to 128C were inserted, as from 6 December 1995, by section 37 Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **128C Withdrawal of list of candidates**

- (1) Any secretary of a political party may withdraw a list of candidates submitted by him or her under section 127 of this Act by notice in form 4A signed by him or her and witnessed by a Justice of the Peace or solicitor.
- (2) No withdrawal of a list of candidates under subsection (1) of this section shall have any effect unless it is lodged with the Chief Electoral Officer not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates.
- (2A) If a list of candidates is withdrawn under subsection (1), the deposit paid under section 127A must be returned to the party secretary, unless the party secretary submits another list of candidates in accordance with section 127.
- (3) Where a list of candidates is withdrawn under subsection (1) of this section, the party secretary may submit another list of candidates in accordance with section 127 of this Act.

Sections 128A to 128C were inserted, as from 6 December 1995, by section 37 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2) was amended, as from 28 February 2002, by section 48(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “writ” for the word “writs”.

Subsection (2A) was inserted, as from 28 February 2002, by section 48(2) Electoral Amendment Act 2002 (2002 No 1).

*By-elections for vacancies in seats of members  
representing electoral districts*

**129 By-elections for members representing electoral districts**

- (1) If the Speaker is satisfied that the seat of a member elected to represent an electoral district has become vacant, the Speaker must, without delay, publish a notice of the vacancy and its cause in the *Gazette*.
- (2) The Governor-General must, within 21 days after the date of a notice published in accordance with subsection (1), issue to the Chief Electoral Officer a writ in form 6 requiring the Chief Electoral Officer to make all necessary arrangements for the conduct of a by-election to fill the vacancy.
- (3) In any case in which it appears to the Governor-General to be necessary for special reasons, the Governor-General may, by Order in Council, authorise the postponement of the issue of a writ for a by-election until a day stated in the Order in Council, being a day not later than 42 days after the date on which the notice was published in accordance with subsection (1).
- (4) This section does not apply to a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

Subsection (2) was amended, as from 22 December 2001, by section 6(1)(a) Electoral (Integrity) Amendment Act 2001 (2001 No 105) by inserting the words “or the operation of section 55A” after the word “resignation”.

Subsection (3) was amended, as from 22 December 2001, by section 6(1)(b) Electoral (Integrity) Amendment Act 2001 (2001 No 105) by inserting the words “or the operation of section 55A” after the word “resignation”.

Subsection (4) was substituted, as from 22 December 2001, by section 6(2) Electoral (Integrity) Amendment Act 2001 (2001 No 105)

Section 129 was substituted, as from 28 February 2002, by section 49 Electoral Amendment Act 2002 (2002 No 1).

**130 When Governor-General to act for Speaker**

*[Repealed]*

Section 130 was repealed, as from 28 February 2002, by section 49 Electoral Amendment Act 2002 (2002 No 1).

**131 Power to resolve in certain cases that by-election not be held**

Notwithstanding anything in section 129 of this Act, no writ shall be issued for a by-election to supply a vacancy in the House of Representatives if—

- (a) The vacancy arises in the period of 6 months ending with the date of the expiration of the Parliament and a resolution that a writ not be issued to supply the vacancy is passed by a majority of 75 percent of all the members of the House of Representatives; or
- (b) Following the tabling in the House of Representatives by the Prime Minister of a document informing the House that a general election is to be held within 6 months of the occurrence of the vacancy, a resolution is passed by a majority of 75 percent of all the members of the House of Representatives to the effect that a writ is not to be issued to supply the vacancy.

Compare: 1956 No 107 s 73A; 1990 No 1 s 35

**132 Writ for by-election**

*[Repealed]*

Section 132 was repealed, as from 28 February 2002, by section 50 Electoral Amendment Act 2002 (2002 No 1).

**133 No writ to issue pending election petition**

If after a petition has been presented against the return of any member representing an electoral district his or her seat becomes vacant on any of the grounds mentioned in section 55 of this Act, no writ to fill the vacancy shall be issued until after the petition has been disposed of, and not then if the Court determines that that member was not duly elected or returned and that some other person was duly elected or returned.

Compare: 1956 No 107 s 75

Section 133 was amended, as from 22 December 2001, by section 7 Electoral (Integrity) Amendment Act 2001 (2001 No 105) by inserting the expression “or section 55A” after the expression “section 55”.

Section 133 was amended, as from the close of 17 September 2005, pursuant to section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105) by omitting the expression “or section 55A”. See section 3 Electoral (Integrity) Amendment Act 2001 (2001 No 105), which expires that Act and the amendments made by that Act to this Act.

*Filling of vacancies in other seats***134 Supply of vacancy of seat of member elected from party list**

- (1) If the Speaker is satisfied that the seat of a member elected as a consequence of inclusion of the member's name on a list submitted under section 127 has become vacant, the Speaker must, without delay, publish a notice of the vacancy and its cause in the *Gazette*.
- (2) The Governor-General must, as soon as practicable after the date of a notice published in accordance with subsection (1), issue to the Chief Electoral Officer a warrant in form 7 directing the Chief Electoral Officer to proceed forthwith to supply the vacancy.
- (3) This section does not apply to a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

Subsection (2) was amended, as from 22 December 2001, by section 8(1) Electoral (Integrity) Amendment Act 2001 (2001 No 105) by inserting the words “or the operation of section 55A” after the word “resignation”.

Subsection (3) was repealed, as from 22 December 2001, by section 8(1) Electoral (Integrity) Amendment Act 2001 (2001 No 105).

Section 134 was substituted, as from 28 February 2002, by section 51 Electoral Amendment Act 2002 (2002 No 1).

**135 When Governor-General to act for Speaker**

Where a vacancy occurs at a time when there is no Speaker or the Speaker is absent from New Zealand, the Governor-General shall cause a like notice to be inserted in the *Gazette*, and the like proceedings to be taken as are provided for in section 134 of this Act.

Compare: 1956 No 107 s 73

**136 Power to resolve in certain cases not to supply vacancy**

Notwithstanding anything in section 134 of this Act, no direction shall be issued under that section to the Chief Electoral Officer to supply a vacancy in the House of Representatives if—

- (a) The vacancy arises in the period of 6 months ending with the date of the expiration of the Parliament and a

resolution that a direction not be issued to supply the vacancy is passed by a majority of 75 percent of all the members of the House of Representatives; or

- (b) Following the tabling in the House of Representatives by the Prime Minister of a document informing the House that a general election is to be held within 6 months of the occurrence of the vacancy, a resolution is passed by a majority of 75 percent of all the members of the House of Representatives to the effect that a direction is not to be issued to supply the vacancy.

Compare: 1956 No 107 s 73A; 1990 No 1 s 35

### **137 Method of supplying vacancy**

- (1) On receipt of any direction under section 134, the Chief Electoral Officer shall proceed to fill the vacancy in the manner prescribed in this section.
- (2) The Chief Electoral Officer shall determine which of the unelected candidates whose name was included in the same party list as the member whose seat has been declared vacant stood highest in the order of preference.
- (3) If that candidate is still alive, the Chief Electoral Officer shall inquire of the Secretary of the political party on whose list the candidate appeared, whether the candidate remains a member of that party.
- (4) If that candidate is still alive and remains a member of that political party, the Chief Electoral Officer shall then inquire of that candidate whether that candidate is willing to be a member of Parliament, and if that candidate so indicates his or her willingness, the Chief Electoral Officer shall declare that person to be elected by notifying the person's election in the *Gazette*.
- (5) If that person has died or is no longer a member of the political party or does not signify his or her willingness to be a member of Parliament, the Chief Electoral Officer shall proceed to make the inquiries described in subsections (3) and (4) of this section in respect of the following candidate in order of preference on the party list, and so on, in descending order of preference, until one of the candidates who remains a member of the party signifies his or her willingness to be a member of Parliament, in which case the Chief Electoral Officer shall declare

that person to be elected by notifying the person's election in the *Gazette*.

- (6) If—
- (a) No candidate signifies his or her willingness to be a member of Parliament; or
  - (b) There is no candidate lower in the order of preference on the party list than the member of Parliament whose seat has been declared vacant,—
- the vacancy shall not be filled until the next general election.
- (7) Whenever subsection (6) applies, the Chief Electoral Officer must publish in the *Gazette* a notice stating that the vacancy cannot be filled.

Section 137 was substituted, as from 6 December 1995, by section 38 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1) was amended, as from 28 February 2002, by section 51(1) Electoral Amendment Act 2002 (2002 No 1) by omitting the words “or section 135 of this Act”.

Subsections (4) and (5) were amended, as from 28 February 2002, by section 51(2) Electoral Amendment Act 2002 (2002 No 1) by adding the words “by notifying the person's election in the *Gazette*”, after the words “to be elected”.

Subsection (7) was inserted, as from 28 February 2002, by section 51(3) Electoral Amendment Act 2002 (2002 No 1).

### 138 Filing of return

Where any vacancy is filled under section 137 of this Act, or the Chief Electoral Officer determines that the vacancy cannot be filled, the Chief Electoral Officer shall, as soon as is convenient, file with the Clerk of the House of Representatives a return indicating,—

- (a) In any case where the vacancy can be filled, the name of the person declared to be elected and the date of the return; or
- (b) In any case where the vacancy cannot be filled, the fact that the vacancy cannot be filled and the date of the return.

#### *Issue of writ*

This heading was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “writ” for the word “writs”.

**139 Contents of writ**

- (1) In every writ for a general election or a by-election there shall be appointed—
  - (a) The latest day for the nomination of constituency candidates; and
  - (b) A day for the polling to take place if a poll is required, being a Saturday; and
  - (c) The latest day for the return of the writ.
- (2) Polling day shall not be earlier than the 20th day after nomination day nor later than the 27th day after nomination day.
- (3)
- (4) The latest day for the return of the writ (other than a writ issued under section 153E(2)) shall be the 50th day after its issue.
- (5) The latest day for the return of a writ issued under section 153E(2) shall be the 78th day after its issue.

Compare: 1956 No 107 s 76; 1975 No 28 s 30; 1985 No 149 s 18

Subsection (1) was amended, as from 28 February 2002, by section 53(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “a general election or a by-election” for the words “the election of a member of Parliament for an electoral district”.

Subsection (3) was repealed, as from 28 February 2002, by section 53(2) Electoral Amendment Act 2002 (2002 No 1).

Subsections (4) and (5) were amended, as from 28 February 2002, by section 53(3) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “section 153E(2)” for the words “section 153(8) of this Act”.

**140 Chief Registrar and Electoral Commission to be notified of writ**

Immediately after receiving a writ for an election to be held in any district, the Chief Electoral Officer must notify the Chief Registrar and the Electoral Commission of the issue of the writ.

Sections 140 to 142 were substituted, as from 28 February 2002, by section 54 Electoral Amendment Act 2002 (2002 No 1).

**141 Returning Officer to be notified of writ**

Immediately after receiving a writ requiring an election to be held in a district, the Chief Electoral Officer must notify the Returning Officer for the district of the following matters:

- (a) the issue of the writ:

- (b) the nomination day appointed in the writ:
- (c) the polling day appointed in the writ.

Sections 140 to 142 were substituted, as from 28 February 2002, by section 54 Electoral Amendment Act 2002 (2002 No 1).

**142 Returning Officer to give public notice of polling day, nomination day, and nomination process**

- (1) Immediately after receiving notification under section 141, the Returning Officer must give public notice of the following matters:
  - (a) the polling day appointed in the writ:
  - (b) the nomination day appointed in the writ:
  - (c) the requirements for submitting nominations of candidates.
- (2) Every notice given under subsection (1) must be in a form approved by the Chief Electoral Officer.

Sections 140 to 142 were substituted, as from 28 February 2002, by section 54 Electoral Amendment Act 2002 (2002 No 1).

*Nominations*

**143 Nominations of candidates for electoral districts**

- (1) Any person qualified under this Act may, with his or her consent, be nominated as a constituency candidate for election for any electoral district, by not fewer than 2 registered electors of that district, by a nomination paper on a form provided by the Chief Electoral Officer.
- (2) Consent to the nomination of any person shall, subject to subsection (3) of this section, be given by that person in writing or, where the Returning Officer has facilities for the receipt of facsimile transmissions, by facsimile transmission, but such consent need not be given at the time when the nomination paper is lodged.
- (3) Where any person is for the time being outside New Zealand, his or her consent, for the purposes of subsection (2) of this section, may be signified to the Returning Officer in any manner approved by the Chief Electoral Officer.
- (3A) If a nomination paper is lodged with the Returning Officer under subsection (1) in relation to a candidate for a political

party, and the political party has a logo registered under section 67A, then in the following cases a copy of the logo may be submitted to the Returning Officer for inclusion on the ballot paper in accordance with section 150(13):

- (a) in the case of a general election,—
    - (i) if the political party is not registered under Part 4; or
    - (ii) if the political party is registered under Part 4, but is not submitting a party list under section 127:
  - (b) in the case of a by-election, whether the political party is registered under Part 4 or not.
- (4) Every nomination paper and every consent and every logo submitted under subsection (3A) of this section for inclusion on the ballot paper shall be lodged with or given to the Returning Officer for the district not later than noon on nomination day. The Returning Officer shall give a receipt in writing for every nomination accepted by him or her.
  - (5) Each constituency candidate shall be nominated by a separate nomination paper in such manner as, in the opinion of the Returning Officer, is sufficient to identify the constituency candidate.
  - (6) Every constituency candidate shall ensure that the name or names shown on the nomination paper as the name or names to be used on the ballot paper are short enough to fit on the ballot paper.
  - (7) No elector may nominate more than one constituency candidate.
  - (8) Any registered elector of the district may inspect any nomination paper or consent at the Returning Officer's office without payment at any time when the office is open for the transaction of business.

Compare: 1956 No 107 s 80(1)-(6); 1990 No 1 s 38

Subsection (1) was substituted, as from 28 February 2002, by section 55(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (3A) was inserted, as from 6 December 1995, by section 39(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (3A) was substituted, as from 28 February 2002, by section 55(2) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was substituted, as from 6 December 1995, by section 39(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

**144 Deposit by candidate**

- (1) Every constituency candidate, or some person on the constituency candidate's behalf, shall deposit with the Returning Officer the sum of \$300 not later than noon on nomination day.
- (2) The deposit shall be paid in the form of money, a bank draft, or a bank cheque.
- (3) The deposit of an unsuccessful candidate is forfeit and must be paid into the Crown Bank Account if the candidate receives in total less than 5% of the total number of votes received by constituency candidates in the district.
- (4) In every other case, the deposit of a constituency candidate must be returned to the person who paid it, but only after the Chief Electoral Officer has received a duly completed return under section 210 in respect of that candidate.

Compare: 1956 No 107 s 81; 1990 No 1 s 39(1)

Subsection (3) was substituted and subsection 4 was inserted, as from 28 February 2002, by section 56 Electoral Amendment Act 2002 (2002 No 1).

**145 Acceptance or rejection of nomination**

- (1) The Returning Officer shall reject the nomination of any constituency candidate—
  - (a) If the nomination paper and the consent of the candidate are not lodged with the Returning Officer not later than noon on nomination day; or
  - (b) If the nomination paper does not state that the candidate is a registered elector of a specified electoral district, or, where section 49 of this Act applies, is a qualified elector of a specified electoral district; or
  - (c) If the nomination paper is not signed by at least 2 registered electors of the district for which the nomination is made; or
  - (d) If the required deposit is not paid as required by this Act.
- (2) Subject to the concurrence of the Chief Electoral Officer, the Returning Officer shall not accept the nomination of any constituency candidate if the Returning Officer is not satisfied, by such evidence (if any) as the Returning Officer requires, that the name under which the candidate is nominated is—

- (a) The name under which the candidate's birth was registered, with any alteration or addition made thereto under section 20 of the Births, Deaths, and Registration Act 1995; or
  - (b) In the case of a person who has been adopted, the name conferred on that person by the adoption order; or
  - (c) The name by which the candidate was commonly known throughout the period of 12 months ending with the day on which the nomination paper is lodged with the Returning Officer; or
  - (d) The name which was adopted by the candidate by deed poll registered under section 21 of the Births, Deaths, and Registration Act 1995 before the period of 12 months ending with the day on which the nomination paper is lodged with the Returning Officer and which was used by the candidate throughout that period.
- (3) Despite anything in subsection (2), in applying that subsection in the case of any constituency candidate who is, or has been, married to, or in a civil union with, another person, the other person's surname may be substituted for the candidate's surname in any of the cases specified in paragraphs (a) to (d) of that subsection, unless, if the other person were nominated as a constituency candidate under that surname, the Returning Officer would be required to reject his or her nomination under the provisions of that subsection.
- (4)
- (5) Notwithstanding anything in subsection (2) of this section, the Returning Officer may, with the concurrence of the Chief Electoral Officer, accept the nomination of any constituency candidate under a name that does not comply with the provisions of that subsection, if the Returning Officer is satisfied that the name has been adopted by the candidate in good faith and for good reason and is not indecent or offensive or likely to deceive or cause confusion.
- (6) In every other case the Returning Officer shall accept the nomination.
- (7) Nothing in subsection (6) of this section limits the jurisdiction of the Court hearing an election petition.

Compare: 1956 No 107 s 82; 1983 No 104 s 16(1)

The references to sections 20 and 21 of the Births, Deaths, and Registration Act 1995 replaced, as from 1 September 1995, earlier references to sections 17 and 17A of the Births and Deaths Registration Act 1951.

Subsection (3) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

Subsection (4) was repealed, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

#### **146 Withdrawal of nomination**

- (1) Any constituency candidate may withdraw his or her nomination by a notice in form 10, signed by him or her and witnessed by a Justice of the Peace or a solicitor.
- (2) No withdrawal of nomination shall have any effect unless it is lodged with the Returning Officer not later than noon on nomination day.
- (3) Where a candidate has duly withdrawn his or her nomination his or her deposit shall be returned to the person who paid it.

Compare: 1956 No 107 s 83

#### *Bulk nomination of candidates by registered political parties*

This heading was inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146A Purpose of sections 146B to 146L**

Sections 146B to 146L provide an alternative to the procedures set out in sections 143 to 146 by which people can be nominated as candidates for election for electoral districts.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146B Notice of intention to lodge bulk nomination**

- (1) If, at any general election, a political party that is registered under Part 4 intends to lodge a bulk nomination schedule of candidates for election for electoral districts, the secretary of that party must notify that intention to the Chief Electoral Officer.
- (2) A notification under subsection (1)—
  - (a) must be given not later than 1 working day after writ day for the general election; and

- (b) must be on a form provided by the Chief Electoral Officer; and
- (c) may be given by hand, post, or facsimile transmission.
- (3) The secretary of a party may, at any time before lodging a bulk nomination schedule, withdraw a notification under subsection (1) by notifying the withdrawal to the Chief Electoral Officer.
- (4) A withdrawal under subsection (3)—
  - (a) must be on a form provided by the Chief Electoral Officer; and
  - (b) may be given by hand, post, or facsimile transmission.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

**146C Effect of notification of intention to lodge bulk nomination on nominations under section 143**

- (1) If the secretary of a political party notifies the party's intention to the Chief Electoral Officer under section 146B(1), that notification remains in force for the purposes of the general election unless—
  - (a) the notification is withdrawn under section 146B(3); or
  - (b) any bulk nomination schedule lodged by the secretary of that party is rejected under section 146G; or
  - (c) the secretary of that party withdraws, under section 146I, a bulk nomination schedule previously lodged by the secretary without providing either of the following:
    - (i) an express statement on the form on which the withdrawal is made that the party intends to lodge another bulk nomination schedule; or
    - (ii) another bulk nomination schedule in accordance with section 146D.
- (2) While a notification of a party's intention under section 146B remains in force for the purposes of a general election,—
  - (a) no Returning Officer may accept a nomination made under section 143 in respect of a candidate for that political party; and
  - (b) if a Returning Officer has already accepted a nomination made under section 143 in respect of a candidate for that

political party, that nomination is of no effect and is to be treated as if it had been withdrawn under section 146.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146D Bulk nomination of constituency candidates**

- (1) At any general election, the secretary of a political party that is registered under Part 4 may, in accordance with this section, nominate as candidates for election for electoral districts persons who are qualified under this Act and who consent to be nominated.
- (2) The secretary of a party may nominate its candidates under this section by lodging, with the Chief Electoral Officer, a single bulk nomination schedule on a form provided by the Chief Electoral Officer.
- (3) A bulk nomination schedule—
  - (a) may be lodged by hand, post, or facsimile transmission; and
  - (b) must be lodged with the Chief Electoral Officer not later than noon on the day before nomination day.
- (4) The Chief Electoral Officer must give a written receipt for every bulk nomination schedule that he or she accepts.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146E Bulk nomination schedule**

- (1) The following requirements apply in relation to a bulk nomination schedule:
  - (a) the schedule must specify the electoral districts for which candidates are nominated in the schedule;
  - (b) the schedule must state, in relation to each such electoral district,—
    - (i) the full name of the constituency candidate; and
    - (ii) if the candidate's full name is not to be used on the ballot paper, the name or names to be used, which must be short enough to fit on the ballot paper.
- (2) Every bulk nomination schedule must contain a declaration, made by the secretary of the party in the manner provided by

section 9 of the Oaths and Declarations Act 1957, that the secretary is satisfied that each constituency candidate nominated in the schedule is qualified under this Act to be a constituency candidate.

- (3) The secretary of the political party must lodge with the bulk nomination schedule, in relation to each constituency candidate nominated in the schedule, a statement on a form provided by the Chief Electoral Officer, signed by the constituency candidate and signifying his or her consent to the nomination.
- (4) If the secretary of a political party lodges a bulk nomination schedule and the political party has a logo registered under section 67A, but the political party is not submitting a party list under section 127, then a copy of the logo may be lodged with the Chief Electoral Officer for inclusion on the ballot paper in accordance with section 150(13).
- (5) Every logo lodged under subsection (4)—
  - (a) may be lodged by hand, post, or facsimile transmission; and
  - (b) must be lodged with the Chief Electoral Officer not later than noon on nomination day.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146F Deposit payable in respect of bulk nomination schedule**

- (1) If a secretary of a party lodges a bulk nomination schedule under section 146D, he or she must lodge with the Chief Electoral Officer, by noon on the day before nomination day, a deposit of \$300 (inclusive of goods and services tax) for every constituency candidate nominated in the bulk nomination schedule.
- (2) The deposit must be in the form of 1 bank draft, or 1 bank cheque, for the total amount payable under subsection (1).
- (3) If an unsuccessful constituency candidate nominated in a bulk nomination schedule receives in total less than 5% of the total number of votes received by constituency candidates in the district for which the unsuccessful candidate was nominated, the amount of the deposit paid under subsection (1) in respect of that unsuccessful candidate is forfeit and must be paid into the Crown Bank Account.

- (4) After deducting any amounts forfeit under subsection (3), the Chief Electoral Officer must return the remainder (if any) of the amount paid under subsection (1) to the party secretary, but only if the Chief Electoral Officer has received a return under section 210 in respect of every constituency candidate nominated in the bulk nomination schedule.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

**146G Acceptance or rejection of bulk nomination schedule or nomination of candidate**

- (1) The Chief Electoral Officer must reject a bulk nomination schedule lodged under section 146D—
- (a) if the schedule is not lodged by the secretary of a political party registered under Part 4; or
  - (b) if the intention to lodge the schedule has not been notified under section 146B; or
  - (c) if the schedule is not lodged with the Chief Electoral Officer by noon on the day before nomination day; or
  - (d) if the schedule does not contain the declaration required by section 146E(2); or
  - (e) if the deposit required by section 146F(1) is not paid by noon on the day before nomination day.
- (2) The Chief Electoral Officer must not accept the nomination of a candidate listed on a bulk nomination schedule in any case where a Returning Officer would be required to reject the nomination of that candidate under section 145(2) if the candidate had been nominated under section 143; and the provisions of subsections (2) to (5) of section 145 apply accordingly with all necessary modifications.
- (3) The Chief Electoral Officer must reject the nomination of a candidate listed on a bulk nomination schedule if—
- (a) the candidate is not qualified both to be a candidate and to be elected as a member of Parliament; or
  - (b) the written notice required by section 146E(3) in relation to that candidate is not lodged with the Chief Electoral Officer by noon on nomination day.

- (4) In every other case the Chief Electoral Officer must accept the bulk nomination schedule and the nominations made on the schedule.
- (5) Subsection (4) does not limit the jurisdiction of the Court hearing an election petition.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146H Amendment of bulk nomination schedule**

- (1) If the secretary of a party lodges a bulk nomination schedule with the Chief Electoral Officer by noon on the day before nomination day, the secretary may, at any time before noon on nomination day, provide to the Chief Electoral Officer any information necessary to remedy any defect or omission in the schedule, or in any document required to be lodged with the schedule.
- (2) Information may be provided under subsection (1) to the Chief Electoral Officer by hand, post, or facsimile transmission.
- (3) If the Chief Electoral Officer receives any information under subsection (1),—
  - (a) the Chief Electoral Officer must, where appropriate, amend the bulk nomination schedule or other document to which the information relates;
  - (b) the Chief Electoral Officer must take the information into account in determining whether to accept or reject, under section 146G, the bulk nomination schedule, or the nomination of a candidate listed on the schedule.
- (4) This section does not authorise the secretary of a party to—
  - (a) substitute a different person as a candidate for election for an electoral district; or
  - (b) nominate a candidate for election for an electoral district for which no candidate was nominated in the schedule as originally lodged with the Chief Electoral Officer.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146I Withdrawal of bulk nomination schedule**

- (1) A secretary of a party may withdraw a bulk nomination schedule lodged by him or her under section 146D.

- (2) A bulk nomination schedule may be withdrawn under subsection (1) by notice, on a form provided by the Chief Electoral Officer, signed by the secretary of the party and witnessed by a Justice of the Peace or a solicitor.
- (3) The withdrawal of a bulk nomination schedule has no effect unless the withdrawal is lodged with the Chief Electoral Officer, by hand, post, or facsimile transmission, by noon on nomination day.
- (4) If the secretary of a party withdraws a bulk nomination schedule under subsection (1), any notification given by that party under section 146B(1) automatically ceases to be in force, unless—
  - (a) the form on which the withdrawal is made expressly states that the party intends to lodge another bulk nomination schedule; or
  - (b) at the time of lodging the withdrawal, the party secretary lodges another bulk nomination schedule in accordance with section 146D.
- (5) If a bulk nomination schedule is withdrawn under subsection (1), the party secretary may lodge another bulk nomination schedule in accordance with section 146D.
- (6) If a bulk nomination schedule is withdrawn under subsection (1), the deposit paid under section 146F must be returned to the party secretary, unless the party secretary submits another bulk nomination schedule in accordance with section 146D.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

#### **146J Withdrawal of nomination in bulk nomination schedule**

- (1) A constituency candidate nominated in a bulk nomination schedule or in accordance with section 146K may withdraw his or her nomination by a notice on a form provided by the Chief Electoral Officer, signed by him or her and witnessed by a Justice of the Peace or a solicitor.
- (2) No withdrawal of nomination under subsection (1) has any effect unless it is lodged with the Chief Electoral Officer not later than noon on nomination day.
- (3) If a candidate for election for an electoral district withdraws his or her nomination under subsection (1), the amount of the

deposit paid under section 146F(1) in respect of that candidate must be returned to the party secretary, unless another candidate for election for that electoral district is nominated under section 146K.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

**146K Replacement nomination if earlier nomination withdrawn or lapses**

- (1) If a candidate for election for an electoral district withdraws his or her nomination under section 146J, or the nomination of a constituency candidate nominated in a bulk nomination schedule is required by section 152 or section 152A(3) to be treated as if it had not been made, the secretary of the party may nominate another candidate for election for that electoral district in the following manner:
  - (a) written notice of the nomination must be lodged with the Chief Electoral Officer, by hand, post, or facsimile transmission, not later than noon on nomination day:
  - (b) the requirements set out in subsections (1) to (3) of section 146E apply in relation to a notice under this section as if the nomination were made in a bulk nomination schedule:
  - (c) the secretary of the party must lodge with the Chief Electoral Officer, by noon on nomination day, a deposit (in the form of money, a bank draft, or a bank cheque) of the amount payable under section 146F(1) for a constituency candidate nominated in a bulk nomination schedule, unless the Chief Electoral Officer holds the amount of the deposit paid under section 146F(1) in respect of the candidate whose nomination was withdrawn or (as the case may be) who died or became incapacitated.
- (2) Sections 146F(3) and (4), 146G, and 146H apply in relation to a nomination lodged under this section as if the nomination had been included in a bulk nomination schedule, except that the references in those sections to the day before nomination day are to be read as references to nomination day.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

**146L Inspection of bulk nomination schedules and consents to nomination**

Any registered elector may inspect the following material at the Chief Electoral Officer's office without payment at any time when the office is open for the transaction of business:

- (a) any bulk nomination schedule lodged under this Act;
- (b) any copy of a consent lodged with a bulk nomination schedule in accordance with section 146E(3);
- (c) any information provided to the Chief Electoral Officer under section 146H;
- (d) any nomination lodged under section 146K.

Sections 146A to 146L were inserted, as from 28 February 2002, by section 57 Electoral Amendment Act 2002 (2002 No 1).

*Advertisements*

**147 Advertisement of nomination and polling places**

- (1) After the close of nominations in any district the Returning Officer shall forthwith forward to the Chief Electoral Officer at Wellington—
  - (a) The names of the constituency candidates who have been nominated under section 143 and who have not withdrawn their nominations; and
  - (b) The party affiliations (if any) of the candidates referred to in paragraph (a) of this subsection and copies of the party logos (if any) submitted under section 143(3A) of this Act in respect of those candidates.
- (2) The Chief Electoral Officer shall forthwith notify to every Returning Officer—
  - (a) The names of the constituency candidates who have been nominated under section 143 for each district in which a poll is required to be taken and who have not withdrawn their nominations; and
  - (b) The party affiliations (if any) of the candidates referred to in paragraph (a) of this subsection, and copies of the party logos (if any) submitted in accordance with sec-

- tion 143(3A) or section 146E(4) of this Act in respect of those candidates; and
- (c) The names of the political parties that have submitted lists in accordance with section 127 of this Act and the party logos (if any) submitted in accordance with subsections (7) and (8) of that section in respect of those parties; and
  - (d) The names of the candidates on the lists referred to in paragraph (c) of this subsection or, where the names of more than 65 candidates are included on any such list, the first 65 of those names.
- (3) Subject to subsection (4) of this section, the Returning Officer for each district in which a poll is required to be taken shall, not later than the day before polling day, publish—
- (a) The names of constituency candidates contesting the district and their party affiliations (if any); and
  - (b) The name of each political party that submitted a list in accordance with section 127 of this Act and, under the name of each political party, the names of the political party's list candidates in the political party's order of preference (up to a maximum of 65 candidates); and
  - (c) The polling places for the district; and
  - (d) The polling places in the district that have suitable access for persons who are physically disabled—
- in at least one newspaper circulating in the district in such manner as the Returning Officer considers most likely to give full publicity thereto.
- (4) The Returning Officer for a district in which a poll is required to be taken shall not be obliged to comply with subsection (3) of this section if the Chief Electoral Officer exercises, in respect of that district, the power conferred on the Chief Electoral Officer by subsection (5) of this section.
- (5) The Chief Electoral Officer may, by such methods as the Chief Electoral Officer considers appropriate (including by post), send to every residential address in an electoral district at which one or more electors reside the information specified in paragraphs (a) to (d) of subsection (3) of this section.

Section 147 was substituted, as from 6 December 1995, by section 40 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection 1(a) was amended, as from 28 February 2002, by section 58(a) Electoral Amendment Act 2002 (2002 No 1) by inserting the words “under section 143” after the word “nominated”.

Subsection 2(b) was amended, as from 28 February 2002, by section 58(b) Electoral Amendment Act 2002 (2002 No 1) by inserting the words “or section 146E(4)” after the expression “section 143(3A)”.

### *Uncontested elections*

#### **148 Procedure where election not contested**

- (1) If—
- (a) only 1 constituency candidate is nominated in a district;  
or
  - (b) any constituency candidate who has been nominated duly withdraws his or her nomination and there remains only 1 constituency candidate,—
- the Chief Electoral Officer must, in accordance with section 179(2), declare the constituency candidate to be duly elected.
- (2) The name of the person so elected must be endorsed on the writ by the Chief Electoral Officer, and the writ must be returned to the Clerk of the House of Representatives in accordance with section 185.

Section 148 was substituted, as from 28 February 2002, by section 59 Electoral Amendment Act 2002 (2002 No 1).

### *Elections*

#### **149 Poll to be taken**

A poll shall be taken by secret ballot at the several polling places of the district on polling day.

Compare: 1956 No 107 s 86

#### **150 Form of ballot papers**

- (1) Subject to subsection (18) of this section, the ballot papers to be used at any election shall be in form 11.
- (2) Forthwith after nomination day for an election, the Returning Officer shall cause ballot papers to be printed in sufficient numbers for the election.
- (3) Subject to subsection (4) of this section, each ballot paper in form 11 shall comprise 2 votes, namely, a party vote and an electorate vote.

- (4) If only one constituency candidate is nominated or if the withdrawal of one or more nominations results in a declaration under section 148 of this Act, the part of the ballot paper that relates to the electorate vote shall not be printed and the ballot paper shall thereafter be treated as if it comprised only the party vote.
- (5) If more than one constituency candidate is nominated, and a sufficient number of constituency candidates do not withdraw their nominations so as to leave only one constituency candidate, the part of the ballot paper relating to the electorate vote shall contain a list of all the persons nominated as constituency candidates who have not withdrawn their nominations (which list shall be arranged in the manner prescribed by this section).
- (6) On the part of the ballot paper relating to the electorate vote—
  - (a) The names of the constituency candidates shall be arranged alphabetically in order of their surnames:
  - (b) The other names of each constituency candidate that are required to appear on the ballot paper shall follow the candidate's surname:
  - (c) The surnames of the constituency candidates shall (except in the case of a special ballot paper that is not fully printed) be in large characters and bold type:
  - (d) The name of the political party of the constituency candidate, if any,—
    - (i) Shall be shown immediately below the candidate's name; and
    - (ii) Shall be in characters that are smaller than those used for the surname of the constituency candidate; and
    - (iii) Shall not be in bold type:
  - (e) Such other matter (if any) as may be necessary to distinguish the names of the constituency candidates shall be shown.
- (7) A constituency candidate (other than an independent candidate) who seeks election shall not use the name of any political party that contested the last general election or any by-election held since the last general election unless that political party has endorsed that candidate as one of its candidates.

- (8) No constituency candidate who seeks election as an independent candidate shall use the name of any political party that contested the last general election or any by-election held since the last general election but shall have the word “INDEPENDENT”, without further qualification or addition, shown on the ballot paper immediately below that candidate’s name.
- (9) On the part of the ballot paper relating to the party vote the name of each political party that has submitted a list in accordance with section 127 of this Act (not being a political party that has submitted a list that has been rejected under section 128 of this Act) shall be shown.
- (10) The names of the political parties that, pursuant to subsection (9) of this section, are required to be shown on the part of the ballot paper that relates to the party vote, shall be arranged so that—
- (a) Where the name of any such political party is shown, immediately below the name of a constituency candidate whose name appears on the part of the ballot paper that relates to the electorate vote, the name of that political party shall be shown on the part of the ballot paper that relates to the party vote in a box that is aligned with the box that contains, on the part of the ballot paper that relates to the electorate vote, the name of that constituency candidate and the name of that political party; and
  - (b) Where the names of any such political parties are not shown on the part of the ballot paper that relates to the electorate vote, the names of those political parties shall be shown in alphabetical order on the part of the ballot paper that relates to the party vote, with each such name being placed after the names of the political parties shown on that part of the ballot paper under paragraph (a) of this subsection and in a box that is aligned with an empty box on the part of the ballot paper that relates to the electorate vote.
- (11) Subject to subsections (6)(e), 12(b), and 13(b) of this section, no other identification, such as an occupation, title, honour, or degree shall be included on the ballot paper in relation to any candidate’s name or political party.

- (12) On the part of the ballot paper that relates to the party vote,—
  - (a) A circle shall be shown on the ballot paper to the right of the name of each political party; and
  - (b) The party's logo, if registered by the Electoral Commission and submitted to the Chief Electoral Officer for inclusion on the ballot paper, shall be shown to the left of the name of the political party.
- (13) On the part of the ballot paper that relates to the electorate vote,—
  - (a) A circle shall be shown on the ballot paper to the left of each candidate's name; and
  - (b) The party's logo, if registered by the Electoral Commission and submitted to the Chief Electoral Officer in accordance with subsections (7) and (8) of section 127 of this Act or to the Returning Officer in accordance with subsections (3A) and (4) of section 143 of this Act or in accordance with subsections (4) and (5) of section 146E for inclusion on the ballot paper, shall be shown to the right of the name of the candidate.
- (14) Every ballot paper shall have a counterfoil in form 13.
- (15) There shall also be printed (in a form that is readable either with or without the aid of technology)—
  - (a) On the ballot paper; and
  - (b) In the space provided in the counterfoil attached to the ballot paper,—

a number (called a consecutive number) beginning with the number 1 in the case of the first ballot paper printed, and on all succeeding ballot papers printed the numbers shall be consecutive so that no two ballot papers for the district shall bear the same number.
- (16) Where any question arises concerning the order or manner in which the names of the constituency candidates or the names of the political parties are to be shown on the ballot paper, the Returning Officer shall decide the question.
- (17) At any by-election no ballot paper shall contain more than one part and the provisions of subsections (3), (9), (10), and (12) of this section shall not apply.
- (18) Every ballot paper used at a by-election shall be in form 12.

- (19) Where the name or names given by a candidate as the name or names to be used on the ballot paper are too long to fit on the ballot paper, the Returning Officer may abbreviate the name or names to be shown in such manner as will enable them to fit on the ballot paper.

Compare: 1956 No 107 s 87; 1990 No 1 s 40(1)

Section 150 was substituted, as from 6 December 1995, by section 41 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 150(13)(b) was amended, as from 28 February 2002, by section 60(1) Electoral Amendment Act 2002 (2002 No 1) by inserting the words “or in accordance with subsections (4) and (5) of section 146E” after the words “section 143 of this Act”.

Section 150(15) was amended, as from 28 February 2002, by section 60(2) Electoral Amendment Act 2002 (2002 No 1) by inserting the words “(in a form that is readable either with or without the aid of technology)” after the words “also be printed”.

### **151 Name of political party for constituency candidates**

- (1) Where a name is shown on a nomination paper, or other document on which a constituency candidate consents to his or her nomination, as the name of the constituency candidate’s political party, the Returning Officer may, if he or she considers it necessary, require the candidate to produce evidence sufficient to satisfy the Returning Officer of the candidate’s eligibility to claim that accreditation.
- (2) Where the Returning Officer considers that the name shown on the nomination paper or other document as the name of the constituency candidate’s political party is indecent or offensive or excessively long or likely to cause confusion to or mislead electors,—
- (a) The Returning Officer shall, after consultation with the candidate, show on the ballot paper as the name of the candidate’s political party such name as the Returning Officer and the candidate agree upon in place of that shown on the nomination paper or other document; and
- (b) If, on such consultation, the Returning Officer and the candidate cannot agree, or if consultation is not reasonably practicable, the Returning Officer shall not show any name on the ballot papers as the name of the candidate’s political party.

Compare: 1956 No 107 s 87A; 1990 No 1 s 40(1)

*Death or incapacity of candidate*

This heading was substituted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**151A Interpretation**

For the purposes of sections 152A to 153H, a candidate is incapacitated if the Returning Officer or, as the case requires, the Chief Electoral Officer is satisfied that, because the candidate is suffering from a serious illness or has sustained a serious injury,—

- (a) if section 152A applies, the candidate is unable to personally withdraw his or her nomination; and
- (b) in any case, the candidate, if elected, would be unlikely to be capable of taking the Oath of Allegiance as a member of Parliament on the 51st day after writ day.

Section 151A was inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**152 Death before close of nominations**

- (1) If a constituency candidate who has been nominated and has not withdrawn his or her nomination dies before the close of nominations,—
  - (a) his or her nomination is to be treated in all respects as if it had not been made; and
  - (b) his or her deposit must be returned to his or her personal representatives or, as the case may be, to the person who paid it.
- (2) Subsection (3) applies if the candidate dies on nomination day before noon, or on any of the 3 days immediately before nomination day.
- (3) If this subsection applies, then, once the Returning Officer is satisfied of the fact of death,—
  - (a) the time for the close of nominations in that district is postponed until noon on the fourth day after the date of the candidate's death; and
  - (b) the Returning Officer must immediately give public notice of the fact that the close of nominations in that district has been postponed and of the new time for the close of nominations.

- (4) If subsection (3) applies, but the candidate was nominated in a bulk nomination schedule or in accordance with section 146K, the references to Returning Officer in subsection (3) are to be read as references to the Chief Electoral Officer.

Section 152 was substituted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**152A Incapacity of candidate before close of nominations**

- (1) If a constituency candidate who has been nominated and has not withdrawn his or her nomination becomes incapacitated before the close of nominations, an application may be made for the cancellation of the nomination.
- (2) Section 152B sets out how an application under subsection (1) must be made, and section 152C sets out how it is to be dealt with.
- (3) If the Returning Officer or, as the case requires, the Chief Electoral Officer cancels the nomination in accordance with section 152C(3),—
- (a) the candidate's nomination is to be treated in all respects as if it had not been made; and
  - (b) the candidate's deposit must be returned to the candidate or, as the case may be, to the person who paid it.
- (4) If the candidate's nomination is cancelled on nomination day, or on any of the 3 days immediately before nomination day, then—
- (a) the time for the close of nominations in the district is postponed until noon on the fourth day after the date on which the candidate's nomination is cancelled; and
  - (b) the Returning Officer or, as the case requires, the Chief Electoral Officer must immediately give public notice of the fact that the close of nominations in the district has been postponed and of the new time for the close of nominations.

Sections 152A to 152C were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**152B Procedural provisions relating to making of application under section 152A(1)**

- (1) An application under section 152A(1) must be made as follows:
  - (a) if the candidate was nominated under section 143,—
    - (i) the application must be made by the 2 registered electors who nominated the candidate, or, if either or both of them are unavailable or unable to act for any reason, then by the candidate's agent;
    - (ii) the application must be made to the Returning Officer for the district;
  - (b) if the candidate was nominated in a bulk nomination schedule or in accordance with section 146K,—
    - (i) the application must be made by the secretary of the party;
    - (ii) the application must be made to the Chief Electoral Officer.
- (2) The application must be made on a form provided by the Chief Electoral Officer, and must be witnessed by a Justice of the Peace or a solicitor.
- (3) The application must be accompanied by a certificate signed by a medical practitioner that certifies—
  - (a) as to the candidate's condition; and
  - (b) that, in the practitioner's opinion, the candidate is incapacitated within the meaning of section 151A.
- (4) The application—
  - (a) must be submitted to the Returning Officer or, as the case requires, the Chief Electoral Officer not later than 4.00 pm on nomination day; and
  - (b) may be submitted by hand, post, or facsimile transmission.

Sections 152A to 152C were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

Subsection (3) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word "registered". See sections 178 to 227 of that Act as to the transitional provisions.

**152C How application under section 152A to be dealt with**

- (1) On receiving an application made under section 152A(1), the Returning Officer or, as the case requires, the Chief Electoral Officer must, without delay, determine whether or not the candidate became incapacitated before the close of nominations.
- (2) For the purpose of making a determination under subsection (1), the Returning Officer or Chief Electoral Officer may make any inquiries, and seek any assistance (including, without limitation, expert medical assistance), that he or she considers necessary.
- (3) If, before midnight on nomination day, the Returning Officer or Chief Electoral Officer determines that the candidate became incapacitated before the close of nominations, the Returning Officer or Chief Electoral Officer must cancel the candidate's nomination.
- (4) If the Returning Officer or Chief Electoral Officer has not made a determination under subsection (1) before midnight on nomination day, then—
  - (a) section 152A does not apply; and
  - (b) the application is to be treated as if it were an application under section 153G(1), and is to be determined accordingly.
- (5) As soon as practicable after making a determination under subsection (1), the Returning Officer or Chief Electoral Officer must inform the applicant or applicants of that determination.

Sections 152A to 152C were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153 Death or incapacity of list candidate after submission of list**

- (1) This section applies if a candidate whose name is included on a list submitted under section 127 dies, or his or her nomination is cancelled on the grounds of incapacity, after the submission of the list and before the declaration required by section 193(5).
- (2) If this section applies,—
  - (a) the poll must proceed; and
  - (b) the list must be treated subsequently as if the candidate's name had never been included on that list.

Subsection (3) was substituted, as from 6 December 1995, by section 42(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4)(a)(i) was amended, as from 6 December 1995, by section 42(2)(a) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “the part of the ballot paper that relates to the electorate vote” for the words “Part A of the ballot paper”.

Subsection (4)(e) was amended, as from 6 December 1995, by section 42(2)(b) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “the part of the ballot paper that relates to the party vote” for the words “Part B of the ballot paper”.

Subsection (7) was substituted, as from 6 December 1995, by section 42(3) Electoral Amendment Act 1995 (1995 No 61).

Section 153 was substituted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153A Death or incapacity of constituency candidate after close of nominations and before polling day**

- (1) This section applies if a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the close of nominations and before polling day.
- (2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate’s nomination has been cancelled, the Returning Officer must,—
  - (a) in the case of a general election,—
    - (i) issue a notice cancelling the poll for the election of a member of Parliament for the district; and
    - (ii) proceed to conduct the poll on the part of the ballot paper that relates to the party vote, which for these purposes is to be treated as if it were the only part of the ballot paper; and this Part applies with any necessary modifications; and
  - (b) in the case of a by-election, issue a notice cancelling the poll; and
  - (c) report to the Chief Electoral Officer—
    - (i) the issue and the date of the notice, under paragraph (a) or paragraph (b), cancelling the poll; and
    - (ii) whether the poll was cancelled because of the candidate’s death or because of the candidate’s incapacity; and

- (iii) the date of the candidate's death, if applicable; and
  - (iv) if the candidate's incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.
- (3) Immediately after receiving the Returning Officer's report under subsection (2)(c), the Chief Electoral Officer must endorse on the writ—
  - (a) the name of the candidate whose death or whose incapacity resulted in the cancellation of the poll for the election of a member of Parliament for the district concerned; and
  - (b) the date of the notice by which the poll was cancelled; and
  - (c) the date on which the candidate died or, as the case requires, the date on which the candidate's incapacity was determined.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

### **153B Death or incapacity of constituency candidate on polling day**

- (1) This section applies if a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, on polling day before the close of the poll.
- (2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate's nomination has been cancelled, the Returning Officer must,—
  - (a) in the case of a general election,—
    - (i) immediately close the part of the poll that is based on electorate votes and declare that part of the poll to be of no effect; and
    - (ii) proceed to conduct the poll on the part of the ballot paper that relates to the party vote, which for these purposes is to be treated as if it were the only part of the ballot paper; and this Part applies with any necessary modifications; and

- (b) in the case of a by-election, immediately close the poll; and
  - (c) report to the Chief Electoral Officer—
    - (i) the closure of the poll or part of the poll and the time of the closure; and
    - (ii) whether the poll or part of the poll was closed because of the candidate's death or because of the candidate's incapacity; and
    - (iii) if the candidate's incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.
- (3) Immediately after receiving the Returning Officer's report under subsection (2)(c), the Chief Electoral Officer must endorse on the writ—
- (a) the name of the candidate whose death or whose incapacity resulted in the closure of the poll for the election of a member of Parliament for the district concerned; and
  - (b) the time of that closure; and
  - (c) the date on which the candidate died or, as the case requires, the date on which the candidate's incapacity was determined.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153C Death or incapacity of successful constituency candidate after close of poll and before declaration of result**

- (1) This section applies if—
- (a) a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the close of the poll and before the declaration of the result of the poll; and
  - (b) it is found on the completion of the count of votes or on a recount that the candidate, if still living or if not incapacitated, would have been elected.
- (2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate's nomination has been cancelled, the Returning Officer must report to the Chief Electoral Officer—

- (a) the death or incapacity of the candidate; and
  - (b) the date of the candidate's death, if applicable; and
  - (c) if the candidate's incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.
- (3) The Chief Electoral Officer must, immediately on being satisfied of the Returning Officer's report under subsection (2), endorse on the writ—
- (a) the name of the candidate; and
  - (b) that the candidate would, if still living or if not incapacitated, have been elected as the member of Parliament for the district concerned; and
  - (c) the date on which the candidate died or, as the case requires, the date on which the candidate's incapacity was determined.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153D Application of equality of votes provisions if constituency candidate dies or becomes incapacitated after close of poll**

The provisions of this Act as to an equality of votes between constituency candidates apply even though, after the close of the poll, 1 of those candidates dies or the nomination of 1 of those candidates is cancelled on the grounds of incapacity.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153E New election to be held if writ vacated**

- (1) Immediately after endorsing the writ in accordance with section 153A or section 153B or section 153C, the Chief Electoral Officer must notify the Governor-General of the need for a fresh election because of the death or the incapacity of the candidate concerned.
- (2) On receiving notification under subsection (1), the Governor-General must, without delay, issue a writ for a fresh election in that district, and that election must be conducted as if it were a by-election unless this Act provides otherwise.

- (3) The main roll and supplementary rolls which were to be used at the election which has failed must be used at the new election without any amendment or addition.
- (4) Any candidate who, at the time of the cancellation or closure of the poll, was a duly nominated candidate does not need to be nominated again, but the candidate may withdraw his or her nomination before the time appointed for the close of nominations for the new election.
- (5) All appointments of polling places made in respect of the election that has failed continue in respect of the new election.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153F Destruction of ballot papers if by-election interrupted**

- (1) This section applies if, in the case of a by-election, the poll is interrupted as a result of the death of a constituency candidate or the cancellation of the nomination of a constituency candidate on the grounds of incapacity.
- (2) If this section applies,—
  - (a) all ballot papers that have been placed in ballot boxes must be taken out by the managers of polling places and made up into secured packages; and
  - (b) those packages must be sent, unopened, to the Returning Officer; and
  - (c) the Returning Officer must immediately destroy those packages in the presence of a District Court Judge or a Justice of the Peace.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

**153G Application for cancellation of nomination if candidate incapacitated after close of nominations**

- (1) An application may be made for the cancellation of the nomination of a candidate if,—
  - (a) in the case of a candidate whose name is included on a list submitted under section 127, the candidate becomes incapacitated after the submission of the list and before the declaration required by section 193(5):

- (b) in the case of a constituency candidate, the candidate becomes incapacitated after the close of nominations and before the declaration of the result of the poll.
- (2) An application under subsection (1) must be made as follows:
  - (a) if the candidate was nominated under section 143,—
    - (i) the application must be made by the 2 registered electors who nominated the candidate or, if either or both of them are unavailable or unable to act for any reason, then by the candidate's agent:
    - (ii) the application must be made to the Returning Officer for the district:
  - (b) if the candidate was nominated in a bulk nomination schedule or in accordance with section 146K, or is a candidate whose name is included on a list submitted under section 127,—
    - (i) the application must be made by the secretary of the party:
    - (ii) the application must be made to the Chief Electoral Officer.
- (3) The application must be made on a form provided by the Chief Electoral Officer, and must be witnessed by a Justice of the Peace or a solicitor.
- (4) The application must be accompanied by a certificate signed by a medical practitioner that certifies—
  - (a) as to the candidate's condition; and
  - (b) that, in the practitioner's opinion, the candidate is incapacitated within the meaning of section 151A.
- (5) The application—
  - (a) must be submitted to the Returning Officer or, as the case requires, the Chief Electoral Officer—
    - (i) as soon as practicable after the candidate becomes incapacitated; and
    - (ii) before the declaration of the result of the poll; and
  - (b) may be submitted by hand, post, or facsimile transmission.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by

omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

**153H How application under section 153G to be dealt with**

- (1) On receiving an application made under subsection (1) of section 153G, the Returning Officer or, as the case requires, the Chief Electoral Officer must, without delay, determine whether or not the candidate became incapacitated in the circumstances set out in that subsection.
- (2) For the purpose of making a determination under subsection (1), the Returning Officer or Chief Electoral Officer may make any inquiries, and seek any assistance (including, without limitation, expert medical assistance), that he or she considers necessary.
- (3) If, before the declaration of the result of the poll, the Returning Officer or Chief Electoral Officer determines that the candidate became incapacitated in the circumstances set out in section 153G(1), the Returning Officer or Chief Electoral Officer must cancel the candidate’s nomination.
- (4) If the Returning Officer or Chief Electoral Officer has not made a determination under subsection (1) before the declaration of the result of the poll, the application is to be treated as having been declined.
- (5) As soon as practicable after making a determination under subsection (1), the Returning Officer or Chief Electoral Officer must inform the applicant or applicants of that determination.

Sections 153A to 153H were inserted, as from 28 February 2002, by section 61 Electoral Amendment Act 2002 (2002 No 1).

*Candidates’ meetings*

**154 Use of public schoolrooms for election meetings**

- (1) Any candidate at an election may, for the purpose of holding public meetings of electors for electoral purposes during the period of an election, use free of charge, other than the cost of lighting and heating, and of cleaning after use, and of repairing any damage done, any suitable room in any public primary school or intermediate school or secondary school after the ordinary school hours, subject to the following provisions:

- (a) Three days' notice of the proposed public meeting shall be given to the governing body of the school:
  - (b) The use of the school shall be granted in the order of receipt of applications by or on behalf of the candidates:
  - (c) No candidate shall have the use of the same room on a second occasion if any other candidate who has not before used it desires to make use of it at the same time under this section.
- (2) If it is proved that any such meeting was not a public meeting within the meaning of this section, the person by whom and the candidate on whose behalf the meeting was convened shall each be liable on summary conviction to a fine not exceeding \$1,000.
- (3) For the purposes of this section, the term **candidate** means—
- (a) Any person who has declared his or her intention of becoming a candidate either by advertisement in a newspaper, or by circular, or by announcement at a public meeting, or by duly consenting to nomination, but does not include a candidate who has withdrawn his or her nomination; or
  - (b) Any person whose name has been included in a list submitted under section 127 of this Act.

Compare: 1956 No 107 s 90; 1975 No 28 s 35(1)(a); 1990 No 1 s 42(1), (2)

### *Polling at elections*

#### **155 Power to appoint polling places**

- (1) In respect of each election, the Chief Electoral Officer may from time to time, subject to subsections (2) to (4) of this section, appoint polling places for any district, and may revoke, alter, or add to any such appointment.
- (2) The polling places appointed for any district may include polling places that are not within the limits of that district.
- (3) No polling place shall be appointed in any licensed premises under the Sale of Liquor Act 1989 that will, at any time on polling day, be open for the sale, supply, or consumption of liquor.

- (4) At least 12 polling places within the limits of each district shall have access that is suitable for persons who are physically disabled.
- (5) The Chief Electoral Officer may make the details of every appointment, revocation, alteration, or addition publicly available by any means that the Chief Electoral Officer considers appropriate.
- (6) Subsection (5) does not limit section 147.

Compare: 1956 No 107 s 91; 1990 No 1 s 43(1)

Subsection (1) was amended, as from 28 February 2002, by section 62(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “Chief Electoral Officer” for the words “Governor-General”.

Subsection (3) was substituted, as from 6 December 1995, by section 43(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was amended, as from 6 December 1995, by section 43(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the expression “12” for the expression “6”.

Subsection (5) was substituted and subsection (6) was inserted, as from 28 February 2002, by section 62(2) Electoral Amendment Act 2002 (2002 No 1).

### **156 Use of public schools as polling places**

- (1) Any public primary school or intermediate school or secondary school may be appointed to be a polling place under section 155 of this Act, and in every such case it shall be the duty of the governing body of the school to place it at the free disposal of the Returning Officer from 4 pm on the day before polling day and for the whole of polling day.
- (2) The cost of cleaning any part of a school used as a polling place, the cost of lighting and heating used on polling day, and the cost of repairing any damage arising from the use of a school as a polling place, shall be defrayed by the Returning Officer out of money to be appropriated by Parliament.

Compare: 1956 No 107 s 91A; 1990 No 1 s 43(1)

### **157 Materials for polling places**

- (1) The Returning Officer must ensure that each polling place has the following things for the purposes of the poll:
  - (a) 1 or more inner compartments to enable voters to vote in secret:

- (b) in each inner compartment, suitable facilities for the marking of ballot papers:
  - (c) 1 or more ballot boxes:
  - (d) 1 or more copies of the main roll and supplementary rolls for the district:
  - (e) a sufficient number of ballot papers.
- (2) The Returning Officer must ensure that there is displayed prominently in every polling place either—
- (a) the name of each political party that submitted a list in accordance with section 127 and, under the name of each political party, the names of the political party's list candidates in the political party's order of preference (up to a maximum of 65 candidates); or
  - (b) copies of the information sent to electors under section 147(5).

Subsection (3) was substituted, as from 6 December 1995, by section 44 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 157 was substituted, as from 28 February 2002, by section 63 Electoral Amendment Act 2002 (2002 No 1).

### **158 Appointment of polling place officials**

- (1) The Returning Officer must, for each polling place, appoint in writing as many polling place officials as the Returning Officer thinks are required for the conduct of the poll, and the preliminary count of votes, at that place.
- (2) The Returning Officer must, in relation to each polling place, designate, by notice in writing, 1 of the polling place officials as the manager of the place.
- (3) The Returning Officer may, in relation to each polling place,—
  - (a) authorise in writing 1 or more polling place officials to issue ballot papers at the place; and
  - (b) designate in writing 1 or more of the polling place officials as interpreters; and
  - (c) authorise in writing or, if the appointment is made on polling day, orally, any person to act for the manager of the polling place in case of the manager's absence.
- (4) The Returning Officer for an electoral district may delegate his or her duties and powers under subsections (1) to (3) to a Returning Officer for another electoral district.

- (5) The State Sector Act 1988 does not apply to a person appointed under this section.

Section 158 was substituted, as from 28 February 2002, by section 63 Electoral Amendment Act 2002 (2002 No 1).

**158A Polling place officials under direction of Chief Electoral Officer and Returning Officer**

- (1) The Chief Electoral Officer and the Returning Officer may each give oral or written directions to all or any polling place officials.
- (2) Every polling place official must exercise or perform his or her powers, duties, and functions in accordance with any directions given by the Chief Electoral Officer or the Returning Officer.

Section 158A was inserted, as from 28 February 2002, by section 63 Electoral Amendment Act 2002 (2002 No 1).

**159 Exercise of powers and duties of polling place officials**

- (1) The Returning Officer may exercise in person all the powers, duties, and functions of a manager of a polling place.
- (2) A person authorised under section 158(3)(c) has, while acting for a manager of a polling place, all the powers, duties, and functions of the manager.
- (3) Every polling place official must, before being allowed to act, make a declaration in form 1 before the Returning Officer, or a Justice of the Peace, or a solicitor, or the manager, or an issuing officer of the polling place concerned.

Section 159 was substituted, as from 28 February 2002, by section 63 Electoral Amendment Act 2002 (2002 No 1).

**159A Interpreters**

- (1) Whenever the Returning Officer designates polling place officials as interpreters, the Returning Officer must, at the request of a candidate, give the candidate the names of the interpreters.
- (2) Regulations made under section 267 may prescribe procedures governing the use of interpreters.

Section 159A was inserted, as from 28 February 2002, by section 63 Electoral Amendment Act 2002 (2002 No 1).

**160 Scrutineers**

- (1) Each constituency candidate may appoint 1 or more scrutineers for each polling place at any election.
- (2) If, at an election in a district, no constituency candidate is standing for a political party that is listed in the part of the ballot paper that relates to the party vote, the secretary of the party may appoint 1 or more scrutineers for each polling place in the district.
- (3) Every appointment of a scrutineer—
  - (a) must be in writing; and
  - (b) must be signed by the constituency candidate or, as the case requires, the secretary of the party.
- (4) Every scrutineer must, before being allowed to act, make a declaration in form 1 before the Returning Officer, or a Justice of the Peace, or a solicitor, or the manager, or an issuing officer of the polling place concerned.
- (5) The number of scrutineers for a candidate or for a political party who may be present in a polling place may not exceed the number of issuing officers designated for the polling place.
- (6) A scrutineer may at any time during the hours of polling leave and re-enter the polling place for which he or she is appointed.
- (7) Nothing in this Act renders it unlawful for a scrutineer to communicate to a person information as to the names of persons who have voted.
- (8) No candidate may act as a scrutineer under this section.

Section 160 was substituted, as from 28 February 2002, by section 63 Electoral Amendment Act 2002 (2002 No 1).

**161 Hours of polling**

- (1) The poll at every election shall commence at 9 am on polling day, and, except as otherwise provided in this Act, shall finally close at 7 pm on the same day.
- (2) Every elector who at the close of the poll is present in a polling place for the purpose of voting shall be entitled to receive a ballot paper and to mark and deposit it in the same manner as if he or she had voted before the close of the poll.

Compare: 1956 No 107 s 96

Subsection (2) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “polling place” for the word “booth”.

**162 Employees to have time off to vote**

- (1) Subject to the provisions of this section, on the polling day at any election every employer shall allow every worker in his or her employment who is an elector of any electoral district in which the election is being held, and who has not had a reasonable opportunity of voting before commencing work, to leave his or her work for the purpose of voting not later than 3 o'clock in the afternoon for the remainder of the day, and it shall not be lawful for any employer to make any deduction from any remuneration payable to any such worker in respect of any time after the time of his or her leaving his or her work as aforesaid.
- (2) Where any such worker is required to work after 3 o'clock in the afternoon of polling day for the purpose of carrying on any essential work or service, his or her employer shall on that day allow the worker to leave his or her work for a reasonable time for the purpose of voting, and it shall not be lawful for the employer to make any deduction from any remuneration payable to the worker in respect of any time, not exceeding 2 hours, occupied in voting as aforesaid.
- (3) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 who contravenes subsection (1) or subsection (2) of this section.
- (4) Every master of a ship that happens to be in any port in New Zealand at the time of any general election or by-election in any district, at the request of any of the crew being registered or qualified to be registered as electors of that district, shall allow them to go ashore at a proper time to admit of their voting at the election; and every master who without reasonable cause commits any breach of this subsection shall be liable on summary conviction to a fine not exceeding \$1,000.
- (5) For the purposes of this section,—

**employer** has the same meaning as in section 5 of the Employment Relations Act 2000

Employer and worker: this definition was repealed, as from 1 April 2004, by section 91(2) Holidays Act 2003 (2003 No 129).

employer: this definition was inserted, as from 1 April 2004, by section 91(2) Holidays Act 2003 (2003 No 129).

**Master**, in relation to any ship, includes any person (except a pilot) having command or charge of the ship.

**worker** has the same meaning as that given to **employee** in section 6 of the Employment Relations Act 2000.

worker: this definition was inserted, as from 1 April 2004, by section 91(2) Holidays Act 2003 (2003 No 129).

- (6) This section shall bind the Crown.

Compare: 1956 No 107 s 98; 1990 No 1 s 48(1)

### *Voting*

#### **163 Ballot box to remain closed during poll**

- (1) The manager of the polling place shall, before the opening of the poll, and in sight of any of the scrutineers present,—
- (a) See that the ballot box is empty; and
  - (b) Close the ballot box; and
  - (c) Ensure that the ballot box is sealed or locked in such a manner as to prevent it being opened without breaking the seal or lock.
- (2) Subject to subsection (3) of this section, the ballot box, after being sealed or locked in accordance with subsection (1) of this section, shall not again be opened until after the close of the poll.
- (3) If the ballot box becomes full and no other ballot box is available, the manager of the polling place, in sight of any of the scrutineers present, may open the ballot box and compress the papers in it.
- (4) Where a ballot box is opened pursuant to subsection (3) of this section, the manager of the polling place shall, after compressing the papers and in sight of any of the scrutineers present,—
- (a) Close the ballot box; and

- (b) Ensure that the ballot box is sealed or locked in such a manner as to prevent it being opened without breaking the seal or lock.

Compare: 1956 No 107 s 101; 1990 No 1 s 51

Subsections (1), (3) and (4) were amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “manager of the polling place” for the words “Deputy Returning Officer”.

#### **164 Persons not to remain in polling places**

No person not actually engaged in voting may remain in a polling place other than the following:

- (a) the Returning Officer;
- (b) polling place officials;
- (c) scrutineers;
- (d) any other person with the permission of the Returning Officer.

Section 164 was substituted, as from 28 February 2002, by section 64 Electoral Amendment Act 2002 (2002 No 1).

#### **165 Voters not to be communicated with in polling place**

- (1) No scrutineer or other official or unofficial person shall communicate with any voter in a polling place either before or after the voter has given his or her vote, except only the issuing officer (with an interpreter if necessary), who may ask the questions he or she is authorised to put, and give such general directions as may assist any voter to give his or her vote, and in particular may on request inform a voter orally of the names of—

- (a) All the constituency candidates in alphabetical order with their party designations; and
- (b) All the parties in alphabetical order who have submitted a party list, and the names of the candidates on each list in the order of preference submitted by the party in accordance with section 127 of this Act.

- (2) Every person who offends against this section shall be liable on summary conviction to a fine not exceeding \$400 and may at once be removed from polling place by order of the manager.

Compare: 1956 No 107 s 103; 1990 No 1 s 53(1)

This heading to section 165 was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “**polling place**” for the word “**booth**”.

Subsection (1) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “place” for the word “booth”. It was further amended by substituting the words “issuing officer” for the words “Deputy Returning Officer or poll clerk”.

Subsection (2) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “polling place by order of the manager” for the words “booth by order of the Deputy Returning Officer”.

### **166 Questions may be put to voters**

- (1) The issuing officer may, and if so required by any scrutineer shall, before allowing any person to vote, put to that person the following questions:
  - (a) Are you the person whose name appears as A B in the electoral roll now in force for the [*Name of district*] Electoral District?
  - (b) Have you already voted at this election in this or any other electoral district?
- (2) In every such case the issuing officer shall require the questions to be answered in writing signed by the person to whom they are put.
- (3) Every person to whom those questions are put who does not answer them, or does not answer the first in the affirmative and the second in the negative, shall be liable on summary conviction to a fine not exceeding \$1,000, and shall be prohibited from voting then or afterwards at that election.
- (4) Every person who wilfully and knowingly makes a false answer to either of the questions that the issuing officer may put to that person under this section shall be liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1956 No 107 s 104; 1990 No 1 s 54(1)

Subsections (1), (2) and (4) were amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “issuing officer” for the words “Deputy Returning Officer”.

**167 Issue of ordinary ballot papers**

- (1) Every issuing officer must, in accordance with this section, issue ballot papers to every elector who applies to vote.
- (2) The elector must give any particulars that are necessary for finding the elector's name on the rolls.
- (3) If the name of the elector is on the rolls, the issuing officer must—
  - (a) mark the rolls to indicate that the elector has applied to vote:
  - (b) if the consecutive number printed on the ballot paper can be read without the aid of technology, ensure that a piece of gummed paper is firmly fixed over the consecutive number on the ballot paper to conceal it effectively:
  - (c) write on the counterfoil of the ballot paper—
    - (i) the issuing officer's initials; and
    - (ii) the number of the page, and the number of the line, on which the elector's name appears on the roll:
  - (d) ensure that the official mark of the issuing officer is placed on the ballot paper to indicate that it was issued by an authorised person:
  - (e) issue the ballot paper to the elector.
- (4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, being an issuing officer, fails to comply with the requirements of this section.

Section 167 was substituted, as from 6 December 1995, by section 45 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 167 was substituted, as from 28 February 2002, by section 65 Electoral Amendment Act 2002 (2002 No 1).

**168 Method of voting**

- (1) The voter, having received a ballot paper,—
  - (a) Shall immediately retire into one of the inner compartments provided for the purpose; and
  - (b) Shall there alone and secretly vote—
    - (i) By marking the party vote with a tick within the circle immediately after the name of the party for which the voter wishes to vote; and

- (ii) By marking the electorate vote with a tick within the circle immediately before the name of the constituency candidate for whom the voter wishes to vote.
- (2) Where the ballot paper comprises only a party vote or only an electorate vote, the provisions of subsection (3) of this section shall apply instead of subsection (1) of this section.
- (3) The voter, having received a ballot paper,—
  - (a) Shall immediately retire into one of the inner compartments provided for the purpose; and
  - (b) Shall there alone and secretly vote either—
    - (i) By marking the party vote with a tick within the circle immediately after the name of the party by which the voter wishes to vote; or
    - (ii) By marking the electorate vote with a tick within the circle immediately before the name of the constituency candidate for whom the voter wishes to vote.
- (4) Every voter shall, before leaving the inner compartment, fold the ballot paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot box.
- (5) Nothing in this section limits the provisions of section 178(5)(a)(ii) of this Act.

Section 168 was substituted, as from 6 December 1995, by section 46 Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **169 Spoilt ballot papers**

- (1) Any voter who, not having deposited his or her ballot paper, in the ballot box, satisfies the issuing officer that the voter has spoilt it by inadvertence may be supplied with a fresh ballot paper, but only after the spoilt one has been returned to the issuing officer.
- (2) The issuing officer shall—
  - (a) Cancel every such spoilt ballot paper by writing across the face thereof the words “Spoilt by voter, and a fresh ballot paper issued” and writing his or her initials thereon:
  - (b) If any ballot paper is inadvertently spoilt by the issuing officer or any other official, cancel it by writing across

the face thereof the words “Spoilt by official” and also the words “and a fresh ballot paper issued” if that is the case, and writing his or her initials thereon:

- (c) Retain all spoilt ballot papers in his or her possession until the close of the poll.

Compare: 1956 No 107 s 107

Section 169 was substituted, as from 6 December 1995, by section 47 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 169 was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “issuing officer” for the words “Deputy Returning Officer” wherever they appear.

**170 Blind, disabled, or illiterate voters**

- (1) Any elector who is wholly or partially blind, or (whether because of physical handicap or otherwise) is unable to read or write or has severe difficulty in reading or writing, 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, any person nominated by the voter, or, if no person is so nominated, the issuing officer, shall accompany the voter into one of the inner compartments provided for the marking of ballot papers, and the ballot paper may there be marked by the voter with the assistance of the person nominated or, as the case may be, of the issuing officer, or may be marked by the person nominated or, as the case may be, by the issuing officer in accordance with the instructions of the voter.
- (3) A voter to whom subsection (2) of this section applies, whether or not he or she nominates a person for the purposes of that subsection, may nominate a person or another person, as the case may require, to inspect the ballot paper before it is deposited in the ballot box.
- (4) 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.
- (5) Every person commits an offence, and shall be liable on summary conviction to a fine not exceeding \$1,000, who, being a

person who is present in accordance with this section or with any regulations when an elector votes, communicates at any time to any person any information obtained as to the constituency candidate or party for whom the voter is about to vote or has voted, or as to the number on the ballot paper given to the voter.

- (6) Regulations made under section 267 of this Act may make provision for electors who are wholly or partially blind to vote by means of devices that enable them to vote without assistance despite the fact that they are wholly or partially blind.

Compare: 1956 No 107 s 108(1), (2), (4)-(7); 1981 No 120 s 33(1)

Subsection (2) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “issuing officer” for the words “Deputy Returning Officer” wherever they occur.

Subsection (5) was amended, as from 6 December 1995, by section 48 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “to a fine not exceeding \$1,000” for the words “to imprisonment for a term not exceeding 3 months”.

### **171 Procedure when second vote given in same name**

If any person proposing to vote at any election gives as his or her name the name of any person to whom a ballot paper has already been given at the same election, he or she shall be dealt with in all respects in like manner as any other voter:

Provided that the ballot paper of any such person shall not be deposited in the ballot box or allowed by the issuing officer, but shall be set aside for separate custody.

Compare: 1956 No 107 s 109

The proviso was amended, as from 6 December 1995, by section 49 Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “and any piece thereof”.

The proviso was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “issuing officer” for the words “Deputy Returning Officer”.

### *Special voting*

### **172 Voting by special voters**

- (1) Notwithstanding anything to the contrary in this Act, a special voter may vote at such place (whether at a polling place or not and whether in or outside New Zealand), 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) Different methods of voting may be prescribed for different classes of special voters.
  - (3) The ballot papers for use by special voters or by any class of special voters may be in such form as is prescribed by regulations, and the consecutive numbers of the special ballot papers for any district may be in a different series from that used for the ordinary ballot papers.
  - (3A) The special vote ballot papers may contain the logos submitted in accordance with section 127(7) and 127(8) or section 143(3A) and 143(4) or section 146E(4) and (5) or a depiction of those logos in black and white; but nothing in this Act requires the inclusion of those logos on the special vote ballot papers.
  - (4) Each constituency candidate may, by writing under his or her hand, appoint one or more scrutineers to be present at the office of the Registrar of Electors when he or she is performing his or her duties in relation to declarations in respect of special votes.
  - (5) Every scrutineer shall, before being allowed to act, make a declaration in form 1 before the Registrar of Electors or the Returning Officer or a Justice of the Peace or a solicitor.
  - (6) Where a constituency candidate appoints more than one scrutineer under subsection (4) of this section, not more than one scrutineer for that candidate shall be present at the office of the Registrar of Electors at any time.
  - (7) No candidate shall act as scrutineer under this section.
  - (8) Subject to the provisions of this section and section 61 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.

Compare: 1956 No 107 s 110; 1981 No 120 s 34; 1990 No 1 s 57

Subsection (3A) was inserted, as from 6 December 1995, by section 50 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (3A) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “section 127(7) and (8) or section 143(3A) and (4) or section 146E(4) and (5)”

for the words “subsections (7) and (8) of section 127 or subsections (3A) and (4) of section 143 of this Act”.

Subsection (5) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by omitting the words “or the Deputy Returning Officer”.

### **173 Voting by special voters on Tokelau, Campbell Island, Raoul Island, and in Ross Dependency**

*[Repealed]*

Subsection (1) was substituted, and subsections (1A) and (1B) were inserted, as from 1 January 1996, by section 51(1) and (3) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsections (2) to (6) were substituted, as from 6 December 1995, by section 51(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 173 was repealed, as from 28 February 2002, by section 66(1) Electoral Amendment Act 2002 (2002 No 1).

### **173A Special voting by facsimile**

*[Repealed]*

Section 173A was inserted, as from 6 December 1995, by section 52 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 173A was repealed, as from 28 February 2002, by section 66(1) Electoral Amendment Act 2002 (2002 No 1).

#### *Preliminary count of votes*

### **174 Preliminary count of votes cast in polling place**

- (1) The manager of every polling place must, as soon as practicable after the close of the poll, in the presence of any scrutineers (including those lawfully in the polling place under any other Act) and the polling place officials, but of no other person, arrange for a preliminary count of the votes to be conducted in accordance with this section.
- (2) For the purposes of the preliminary count, all ballot papers must be taken from the ballot boxes to ascertain, as the case may require,—
  - (a) the number of votes received by each party listed in the part of the ballot paper that relates to the party vote; or
  - (b) the number of votes received by each candidate listed in the part of the ballot paper that relates to the electorate vote; or

- (c) both.
- (3) For the purposes of subsection (2), the following votes must be set aside as informal:
  - (a) any party votes that do not clearly indicate the party for which the voter desired to vote:
  - (b) any electorate votes that do not clearly indicate the candidate for whom the voter desired to vote.
- (4) As soon as possible after ascertaining a result of the voting, the manager must ensure that the result is reported to the Returning Officer.
- (5) If a referendum has, under any Act, been taken with the poll, the manager must ensure that the preliminary count of the party votes and the electorate votes, and the reports under subsection (4) take priority over the counting of the votes of the referendum.

Section 174 was substituted, as from 6 December 1995, by section 53 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 174 was substituted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

#### **174A Ballot papers, etc, to be compiled, certified, and sent to Returning Officer**

- (1) After completing the preliminary count under section 174, the manager of the polling place must—
  - (a) ensure that the following documents are enclosed in 1 or more parcels:
    - (i) the used ballot papers:
    - (ii) the ballot papers set aside under section 171:
    - (iii) the certified copies of the main roll and supplementary rolls that have been marked by issuing officers to indicate the persons who applied to vote:
    - (iv) all the counterfoils of ballot papers that have been issued to voters and all the unused ballot papers:
    - (v) all the spoilt ballot papers; and
  - (b) ensure that each parcel is properly secured and endorsed with a description of its contents, the name of the district, the name or other identifier of the polling place, and the date of the polling; and

- (c) ensure that 1 or more certificates are prepared that certify—
    - (i) the number of votes received by each party (if applicable):
    - (ii) the number of votes received by each candidate (if applicable):
    - (iii) the number of informal party votes:
    - (iv) the number of informal electorate votes:
    - (v) the number of ballot papers set aside under section 171:
    - (vi) the number of spoiled ballot papers:
    - (vii) the number of ballot papers issued to special voters:
    - (viii) the number of unused ballot papers:
    - (ix) the total number of ballot papers allocated for use at the polling place; and
  - (d) sign, and invite each scrutineer who is present to sign, every endorsement prepared under paragraph (b) and every certificate prepared under paragraph (c).
- (2) The manager must ensure that all parcels mentioned in this section are sent to the Returning Officer without delay.
  - (3) This section does not prevent any of the documents referred to in subparagraphs (ii) to (v) of subsection (1)(a) from being placed in 1 or more parcels before the preliminary count under section 174 has commenced or while it is in progress.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

**174B No preliminary count if fewer than 6 ordinary ballot papers issued**

- (1) If, at any election, the number of ordinary ballot papers issued for a district at a polling place is smaller than 6, the manager of the polling place must, after the close of the poll, arrange for the secure dispatch of those ballot papers to the Returning Officer for the district.
- (2) This section overrides sections 174 and 174A.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

**174C Preliminary count of early votes**

- (1) In this section and in sections 174D to 174G, **early votes** means special votes that—
  - (a) are delivered or sent to the Returning Officer on or before polling day; and
  - (b) were, in accordance with regulations made under this Act, issued in substantially the same manner as ordinary ballot papers are issued under section 167.
- (2) The Returning Officer must, in the presence of any scrutineers appointed under section 174F and any of the Returning Officer's assistants, but of no other person, conduct, in accordance with this section, a preliminary count of early votes.
- (3) The Returning Officer must take the early votes and ascertain, as the case may require,—
  - (a) the number of votes received by each party listed in the part of the ballot paper that relates to the party vote; or
  - (b) the number of votes received by each candidate listed in the part of the ballot paper that relates to the electorate vote; or
  - (c) both.
- (4) For the purposes of subsection (3), the Returning Officer must set aside as informal—
  - (a) all party votes that do not clearly indicate the party for which the voter desired to vote;
  - (b) all electorate votes that do not clearly indicate the candidate for whom the voter desired to vote.
- (5) A count under this section must be commenced,—
  - (a) if the conditions stated in section 174D(2) apply, as soon as practicable after 3 pm on polling day; or
  - (b) if those conditions do not apply, as soon as practicable after the close of the poll.
- (6) If a referendum has, under any Act, been taken with the poll, the Returning Officer must ensure that the count, under this section, of party votes and electorate votes takes priority over the counting of the votes of the referendum.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

**174D Conditions for counting early votes before close of poll**

- (1) In this section and in sections 174E to 174G, restricted area means an area, in the office of the Returning Officer, that—
  - (a) is designated by the Returning Officer for the purpose of the count of early votes; and
  - (b) has features that—
    - (i) preclude persons who are not in the area from seeing or hearing any aspect of the count; and
    - (ii) permit the Returning Officer to control persons who wish to enter or leave the area.
- (2) The conditions referred to in section 174C(5)(a) are as follows:
  - (a) the Chief Electoral Officer has authorised the Returning Officer to commence the count before the close of the poll:
  - (b) the count is to be conducted in a restricted area:
  - (c) on every entrance to the restricted area there is a notice stating that it is an offence, without the express authorisation of the Returning Officer, to enter the area:
  - (d) on every exit from the restricted area there is a notice stating that it is an offence, without the express authorisation of the Returning Officer, to leave the area.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

**174E Maintenance of secrecy of count of early votes**

- (1) On polling day, no person (other than a scrutineer appointed under section 174F) may, without the express authorisation of the Returning Officer, enter a restricted area.
- (2) On polling day, a person who enters, whether with or without authorisation, a restricted area may not leave the area before the close of the poll without the express authorisation of the Returning Officer.
- (3) The Chief Electoral Officer may issue instructions to Returning Officers setting further requirements for the purpose of maintaining the secrecy of counts conducted before the close of the poll.
- (4) The Returning Officer must ensure that all persons who take part in the counts conducted before the close of the poll are familiar with any instructions issued under subsection (3), and

the Returning Officer and those persons must comply with those instructions.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

**174F Scrutineers for count of early votes**

- (1) Each constituency candidate may appoint a scrutineer to attend at the count of early votes conducted under section 174C.
- (2) Every appointment of a scrutineer—
  - (a) must be in writing; and
  - (b) must be signed by the constituency candidate.
- (3) Every scrutineer must, before being allowed to attend at the count, make a declaration in form 1 before the Returning Officer or a Justice of the Peace or a solicitor.
- (4) If the count is conducted before the close of the poll, every scrutineer appointed under this section may enter and be present in the restricted area from 2.30 pm on polling day until the conclusion of the count.
- (5) No scrutineer may, before the close of the poll, enter a restricted area with a device that enables information to be conveyed to a person or machine outside the area.
- (6) If a scrutineer fails to comply with subsection (5) or an instruction issued under section 174E(3) and communicated to the scrutineer, the Returning Officer may—
  - (a) refuse to allow the scrutineer to enter the restricted area; or
  - (b) require the scrutineer to leave the restricted area.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

**174G Offences in relation to count of early votes conducted before close of poll**

- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who,—
  - (a) not being a scrutineer appointed under section 174F, enters, on polling day, a restricted area without the express authorisation of the Returning Officer; or
  - (b) being a scrutineer appointed under section 174F, enters, on polling day, a restricted area with a device that en-

- ables information to be conveyed to a person or machine outside the area; or
- (c) leaves, on polling day, a restricted area without the express authorisation of the Returning Officer.
- (2) Every person commits an offence and is guilty of a corrupt practice who, being or having been in a restricted area, discloses, before the close of the poll, to any person outside the area any information about the results of a count of early votes conducted under section 174C.

Section 174A to 174G were inserted, as from 28 February 2002, by section 67(1) Electoral Amendment Act 2002 (2002 No 1).

### *Scrutiny of the rolls*

#### **175 Scrutiny of the rolls**

- (1) The Returning Officer—
- (a) Shall make arrangements for a scrutiny of the rolls as soon as practicable after the close of the poll; and
- (b) Shall give notice in writing to each of the constituency candidates or their scrutineers of the time and place at which the Returning Officer will commence the scrutiny.
- (2) Each constituency candidate may, by writing under his or her hand, appoint one or more scrutineers to be present at the scrutiny of the rolls.
- (3) Every scrutineer must, before being allowed to act, make a declaration in form 1 before the Chief Electoral Officer, the Returning Officer, a Justice of the Peace, or a solicitor.
- (4) Where a constituency candidate appoints more than one scrutineer to be present at the scrutiny of the rolls, only one scrutineer for that candidate, or such greater number as is permitted by the Returning Officer, shall be present at the scrutiny of the rolls at any time.
- (5) The only persons who may be present at the scrutiny are—
- (a) the Chief Electoral Officer:
- (b) the Returning Officer:
- (c) any assistant of the Chief Electoral Officer or of the Returning Officer:

- (d) any expert or technician who provides advice or support to the Chief Electoral Officer or to the Returning Officer for the purpose of the scrutiny:
- (e) any scrutineer.
- (6) No candidate shall act as scrutineer under this section.
- (7) A scrutineer appointed under this section may be appointed by facsimile transmission.

Compare: 1956 No 107 s 112; 1990 No 1 s 59(1)

Subsection (3) was substituted, as from 28 February 2002, by section 68(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (5) was substituted, as from 28 February 2002, by section 68(2) Electoral Amendment Act 2002 (2002 No 1).

#### **176 Marked copies of rolls to be compared**

- (1) The Returning Officer or the Chief Electoral Officer must, in the presence of any assistants, experts, or technicians and any scrutineers that are entitled to be present under this Act or any other Act, but of no other person,—
  - (a) compare (either manually or by any electronic means)—
    - (i) all the certified copies of the main roll and supplementary rolls that have been marked to indicate the persons who applied to vote; and
    - (ii) all records of special votes exercised; and
    - (iii) the list of post-writ day deletions supplied to the Returning Officer by the Registrar of Electors under section 123(b); and
  - (b) compile a master roll by marking (either manually or by any electronic means) on an unmarked copy of the main roll and on every supplementary roll the number and name of any elector—
    - (i) who is shown on any of the certified copies of the rolls as having received a ballot paper; or
    - (ii) who is shown in any record of special votes issued as having received a ballot paper; or
    - (iii) whose name is shown on the list of post-writ day deletions.
- (2) If on that comparison or from the checking of declarations in respect of special votes or from the report of a manager of a

polling place on the ballot papers set aside under section 171, and after any inquiry the Returning Officer considers necessary, it appears that the same voter has received more than 1 ballot paper, the Returning Officer must,—

- (a) in the presence of any assistants and any scrutineers that choose to be present, but of no other person, open the parcel or parcels of ballot papers that are likely to contain the ballot papers issued to the voter; and
- (b) select from the parcel or parcels the ballot papers that appear from their consecutive numbers and counterfoils to have been issued to that voter; and
- (c) subject to subsection (3), disallow every vote that appears to have been given by means of the ballot papers so selected.

(3) Notwithstanding subsection (2)(c) of this section, if the Returning Officer is satisfied—

- (a) That one and only one of the ballot papers was lawfully received by the voter entitled thereto; and
- (b) That the voter entitled thereto was not in any way concerned in the issue of the other ballot paper or ballot papers,—

the Returning Officer shall allow the vote of that voter and shall disallow the other vote or votes.

(4) If, on the comparison with all the certified copies of the main roll and supplementary rolls on which the fact of any person having received a ballot paper has been noted, and all records of special votes exercised in respect of the district, and the list of post-writ day deletions, it appears that any person has received a ballot paper by giving a name shown on the list of post-writ day deletions, the Returning Officer—

- (a) must, in the presence of any assistants and any scrutineers that choose to be present, but of no other person, open the parcel or parcels of ballot papers that are likely to contain the ballot papers issued to the voter; and
- (b) must select from the parcel or parcels the ballot papers that appear from their consecutive numbers and counterfoils to have been issued to that voter; and

- (c) Subject to subsections (5) and (6) of this section, shall disallow every vote appearing to have been given by means of any ballot paper so selected.
- (5) Notwithstanding subsection (4)(c) of this section, but subject to subsection (6) of this section, if the Returning Officer is satisfied that the name by which a ballot paper selected under subsection (4)(b) of this section was received was entered on the list of post-writ day deletions by mistake or clerical error or as a result of false information, he or she shall allow each vote given by means of that ballot paper.
- (6) Notwithstanding subsections (4) and (5) of this section, if—
  - (a) The Returning Officer is satisfied that the name by which a ballot paper selected under subsection (4)(b) of this section was received was entered on the list of post-writ day deletions by mistake or clerical error or as a result of false information; and
  - (b) More than one ballot paper was received by the giving of a name shown on the list of post-writ day deletions; and
  - (c) The Returning Officer is satisfied—
    - (i) That one and only one of the ballot papers was lawfully received by the voter entitled thereto; and
    - (ii) That the voter entitled thereto was not in any way concerned in the issue of the other ballot paper or ballot papers,—the Returning Officer shall allow the vote of that voter and shall disallow the other vote or votes.
- (7)
- (8) Except in the case of the ballot papers so selected therefrom, the Returning Officer shall inspect only the consecutive numbers on the ballot papers in the several parcels so opened, and shall so cover the ballot papers that no person present shall have the opportunity of determining the party or constituency candidate for whom any particular voter has voted.

Compare: 1956 No 107 s 113; 1983 No 104 s 19

Section 176 was substituted, as from 6 December 1995, by section 54 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsections (1) and (2) were substituted, as from 28 February 2002, by section 69(1) Electoral Amendment Act 2002 (2002 No 1).

Subsections (4)(a) and (4)(b) were substituted, as from 28 February 2002, by section 69(2) Electoral Amendment Act 2002 (2002 No 1).

Subsection (7) was repealed, as from 28 February 2002, by section 69(3) Electoral Amendment Act 2002 (2002 No 1).

### **177 Parcels to be secured after scrutiny**

- (1) When the Returning Officer has selected from any parcel all the ballot papers he or she is required to select therefrom, he or she shall forthwith, in the presence of his or her assistants (if any) and such scrutineers as are present, but of no other person, close and secure the parcel, and shall endorse thereon a memorandum of the fact of the ballot papers having been selected from that parcel, specifying the same by the name of the person to whom the same appear to have been delivered, and shall sign the endorsement with his or her name.
- (2) The Returning Officer shall set aside all ballot papers selected by him or her from any parcel as herein provided, and shall in the presence of his or her assistants (if any) and such scrutineers as are present, but of no other person, secure those ballot papers in a separate parcel, and shall endorse the parcel with a description of the contents thereof, and shall sign the endorsement with his or her name.

Compare: 1956 No 107 s 114

Subsections (1) and (2) were amended, as from 6 December 1995, by section 55 Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or pieces thereof”.

### *Official count and declaration of poll*

### **178 Counting the votes**

- (1) On or before the completion of the scrutiny under section 175, the Returning Officer, with any assistants the Returning Officer considers necessary, and in the presence of any of the scrutineers appointed under section 175 that are present (not exceeding, unless the Returning Officer otherwise permits, 1 scrutineer for each candidate) and also in the presence of a Justice (who is to attend at the request of the Returning Officer), but of no other person, must select and open 1

of the parcels of used ballot papers referred to in section 174A(1)(a)(i).

- (2) The procedure set out in subsection (1) of this section need not be delayed until the inquiries under section 176(2) of this Act, or the inquiries as to the qualifications of persons casting a special vote at the election, have been completed, and the ballot papers from any particular polling place may be counted while any inquiries in respect of ballot papers from that place or in respect of the qualifications of persons casting a special vote at the election are being completed, but the count shall not be completed until those inquiries have been completed.
- (3) No special vote shall be disallowed 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) Where a person who has voted in an election dies before the close of the day before polling day, the Returning Officer shall, on receiving from a Registrar of Births and Deaths notification of that person's death, disallow that person's vote.
- (5) When the parcel selected under subsection (1) of this section has been opened, the Returning Officer shall, in the presence of his or her assistants (if any) and the scrutineers and Justice as aforesaid, but of no other person, deal with the ballot papers as follows:
  - (a) He or she shall reject as informal—
    - (i) any ballot paper that does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by an issuing officer; and
    - (ii) A ballot paper that does not clearly indicate the constituency candidate or the party, as the case may require, for which the voter desired to vote: Provided that no ballot paper or part of the ballot paper shall be rejected as informal by reason only of some informality in the manner in which it or any other part of the ballot paper has been dealt with by the voter if the ballot paper or part of the ballot paper being considered is otherwise regu-

lar, and if, in the opinion of the Returning Officer, the intention of the voter is clearly indicated:

Provided also that no ballot paper or part of a ballot 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:

- (b) The Returning Officer shall then—
    - (i) Count, as the case may require, the number of votes received by each party or the number of votes received by each constituency candidate or both; and
    - (ii) Count the number of party votes rejected as informal; and
    - (iii) Count the number of electorate votes rejected as informal; and
    - (iv) Compare the results of the counts conducted under subparagraphs (i) to (iii) of this paragraph with the certificate of the Deputy Returning Officer in respect of the preliminary count; and
  - (c) The Returning Officer shall then, where necessary, amend the certificate of the polling place manager in respect of the preliminary count; and every such certificate shall be initialled by the Returning Officer and the Justice attending:
  - (d) the Returning Officer must then endorse on the parcel the name or other identifier of the polling place where the votes were recorded; and that endorsement must be signed by the Returning Officer and the Justice who attends.
- (5A) Despite section 60, if a voter who was qualified to vote as an elector of a particular district votes as if he or she were an elector of another district, the voter's party vote—
- (a) may not be disallowed simply because of the voter's error with regard to the district; and
  - (b) for the purposes of this section and sections 179 to 181, is to be regarded as having been cast by an elector of the other district.

- (6) The ballot papers from all the parcels shall be dealt with in the manner aforesaid and the ballot papers from one parcel may be so dealt with while those from another parcel or parcels are also being so dealt with.
- (7) The ballot 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.
- (8) When all the ballot papers have been dealt with in the prescribed manner, the Justice attending shall sign a certificate stating the total number of ballot papers used at the election, the number of votes received by each party or constituency candidate, as the case may require, and the number of informal votes, and that certificate shall be preserved by the Returning Officer for production when required.
- (9) Where at any count of the ballot papers under this section counting of the ballot papers extends beyond one day, the Justice attending shall give his or her certificate day by day showing the progress of that counting and describing the parcels counted in his or her presence.

Compare: 1956 No 107 s 115; 1990 No 1 s 60(1), (2)

Section 178 was substituted, as from 6 December 1995, by section 56 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (1) was substituted, as from 28 February 2002, by section 70(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (2) was amended, as from 28 February 2002, by section 70(2) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “place” for the word “booth” in both places where it occurs.

Subsection (5)(a)(i) was substituted, as from 28 February 2002, by section 70(3) Electoral Amendment Act 2002 (2002 No 1).

Subsection (5)(c) was amended, as from 28 February 2002, by section 70(4) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “polling place manager” for the expression “Returning Officer” in the second place where it occurs.

Subsection (5)(d) was substituted, as from 28 February 2002, by section 70(5) Electoral Amendment Act 2002 (2002 No 1).

Subsection (5A) was inserted, as from 28 February 2002, by section 70(6) Electoral Amendment Act 2002 (2002 No 1).

**179 Declaration of result of poll**

- (1) When the official count under section 178 is completed, the Returning Officer must give the Chief Electoral Officer the following information:
  - (a) the total number of valid votes received by each of the parties listed on the party vote part of the ballot paper:
  - (b) the total number of valid votes received by each constituency candidate:
  - (c) the total number of informal party votes:
  - (d) the total number of informal electorate votes.
- (2) As soon as practicable after receiving from a Returning Officer the information specified in subsection (1), the Chief Electoral Officer must declare the results of the official count for the district concerned by publishing in the *Gazette* a notice in form 14.
- (3) The Chief Electoral Officer may declare the results for any number of districts on the same day, if the Chief Electoral Officer considers it appropriate to do so.
- (4) The Chief Electoral Officer may make arrangements under which persons with a particular interest in any declaration under subsection (2) are informed of the result, by any means the Chief Electoral Officer considers appropriate.
- (5) If there is an equality of votes between constituency candidates for a district and the addition of 1 vote would entitle 1 of those candidates to be declared elected, the Chief Electoral Officer must, without delay, apply to a District Court Judge for a recount under section 180, and all the provisions of that section apply accordingly, except that no deposit is necessary.
- (6) If on a recount under section 180 there is an equality of votes between constituency candidates and the addition of 1 vote would entitle 1 of those candidates to be declared elected, the Chief Electoral Officer must determine by lot which of those candidates is to be elected.

Subsection (1) was amended, as from 6 December 1995, by section 57(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or pieces thereof”.

Subsection (4) was substituted, as from 6 December 1995, by section 57(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 179 was substituted, as from 28 February 2002, by section 71(1) Electoral Amendment Act 2002 (2002 No 1).

*Recount*

**180 Application to District Court Judge for recount**

- (1) Any constituency candidate for a district may, within 3 working days after the public declaration made under section 179 of this Act in respect of that district, apply to a District Court Judge for the conduct, in respect of that district, of a recount of the electorate votes.
- (2) Any Secretary of a political party that is listed on the part of the ballot paper that relates to the party vote may, within 3 working days after the public declaration made under section 179 of this Act in respect of a district, apply to a District Court Judge for the conduct, in respect of that district, of a recount of the party votes.
- (3) Every application under subsection (1) of this section shall be accompanied by a deposit of \$1,000 (which deposit shall be inclusive of goods and services tax).
- (4) Every application under subsection (2) of this section shall be accompanied by a deposit of \$1,500 (which deposit shall be inclusive of goods and services tax).
- (5) The District Court Judge—
  - (a) Shall cause a recount of the electorate votes or the party votes, as the case may require, to be commenced within 3 working days after receiving the application; and
  - (b) Shall give notice in writing of the time and place at which the recount will be made—
    - (i) To the Returning Officer; and
    - (ii) In the case of an application made under subsection (1) of this section, to each of the candidates who may be affected by the recount; and
    - (iii) In the case of an application under subsection (2) of this section, to each of the political parties that may be affected by the recount.
- (6) The recount shall be made in the presence of the District Court Judge or of an officer appointed by the District Court Judge for the purpose, and shall, as far as practicable, be made in the manner provided in the case of the original count.
- (7) No person shall be present at the recount except—

- (a) The District Court Judge or the officer appointed by the District Court Judge; and
  - (b) The assistants (if any) of the District Court Judge or the officer appointed by the District Court Judge; and
  - (c) The Returning Officer and the assistants (if any) of the Returning Officer; and
  - (d) In the case of a recount of electorate votes, the scrutineers appointed under section 175 of this Act or section 183(1) of this Act (not exceeding, unless the District Court Judge or the officer appointed by the District Court Judge otherwise permits, one scrutineer for each constituency candidate); and
  - (e) In the case of a recount, made on an application under subsection (2) of this section, of party votes, the scrutineers appointed under section 183(2)(a) of this Act (not exceeding, unless the District Court Judge or the officer appointed by the District Court Judge otherwise permits, one scrutineer for each political party); and
  - (f) In the case of a recount, made on an application under section 181(1) of this Act, of party votes, the scrutineers appointed under section 183(2)(b) of this Act (not exceeding, unless the District Court Judge or the officer appointed by the District Court Judge otherwise permits, one scrutineer for each political party).
- (8) The District Court Judge shall have all the powers that the Returning Officer had on the original count, and may, in addition, review any decision of the Returning Officer or the Registrar of Electors in respect of—
- (a) The checking of special voting declarations; or
  - (b) The allowance or disallowance of special votes.
- (9) Any decision referred to in subsection (8) of this section and any other decision made by the Returning Officer in the exercise of the Returning Officer's powers on the original count may be confirmed, reversed, or set aside by the District Court Judge.
- (10) If on the recount the District Court Judge finds that the public declaration was incorrect, the District Court Judge shall order the Chief Electoral Officer to give an amended declaration of the result of the poll.

- (11) The District Court Judge may make such order as to the costs of and incidental to the recount as the District Court Judge thinks just, and, subject to any such order, shall direct that the deposit made under this section be returned to the person who paid it.

Compare: 1956 No 107 s 117; 1990 No 1 s 61(1)

Subsections (1) and (2) were substituted, as from 6 December 1995, by section 58(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (5)(a) was substituted, as from 6 December 1995, by section 58(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (7)(d) and (e) were substituted, and subsection (7)(f) was inserted, as from 6 December 1995, by section 58(3) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (10) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “Chief Electoral Officer” for the words “Returning Officer”.

**181 Application by political party for recount in every electoral district**

- (1) Any Secretary of a political party listed on the part of the ballot paper that relates to the party vote may, instead of making one or more separate applications for recounts under section 180(2) of this Act, apply to the Chief District Court Judge for recounts of the party votes to be conducted in every electoral district.
- (2) Every application under subsection (1) of this section must be made within 3 working days after the date of the last public declaration made under section 179 of this Act for any electoral district.
- (3) Every application under subsection (1) of this section shall be accompanied by a deposit of \$90,000 (which deposit shall be inclusive of goods and services tax).
- (4) The Chief District Court Judge shall cause a separate recount of the party votes to be conducted for each electoral district and, for that purpose, shall, within 3 working days after receiving the application for the recounts, arrange, in respect of each recount, for a District Court Judge to conduct it.
- (5) Each recount conducted under this section shall be conducted in accordance with subsections (5) to (10) of section 180 of this Act, except that each recount shall be commenced within

3 working days of the date on which the District Court Judge conducting the recount is assigned that task.

- (6) At the conclusion of all recounts under this section, the Chief District Court Judge may make such order or orders as to the costs of and incidental to those recounts as the Chief District Court Judge thinks just, and, subject to any such order, shall direct that the deposit made under this section be returned to the person who paid it.

Subsection (1) was substituted, as from 6 December 1995, by section 59(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was substituted, as from 6 December 1995, by section 59(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

## **182 Ability to combine recounts**

Nothing in section 180 or section 181 of this Act requires the electorate votes or the party votes to be the subject of more than one recount and, where more than one application is received that would involve recounts of the same votes or of both parts of the same ballot papers, those applications may be combined by the District Court Judge conducting the recount.

Section 182 was substituted, as from 6 December 1995, by section 60 Electoral Amendment Act (No 2) 1995 (1995 No 61).

## **183 Scrutineers for recounts and allocation of list seats**

- (1) Any constituency candidate affected by an application under section 180(1) of this Act for a recount of electorate votes in an electoral district may appoint one or more scrutineers to be present at the recount.
- (2) Any political party affected—
- (a) By an application under section 180(2) of this Act for a recount of party votes in an electoral district; or
  - (b) By an application under section 181(1) of this Act for recounts of the party votes in every electoral district,—
- may appoint one or more scrutineers to be present at any such recount.
- (3) Any political party listed in the part of the ballot paper that relates to the party vote may appoint one or more scrutineers to be present during the allocation of list seats by the Chief Electoral Officer under sections 191 to 193 of this Act.

- (4) Every scrutineer appointed under this section must, before being allowed to act, make a declaration in form 1 before the Chief Electoral Officer, the Returning Officer, a Justice of the Peace, or a solicitor.
- (5) Where a political party appoints more than one scrutineer to be present during the allocation of list seats, only one scrutineer for that political party, or such greater number as is permitted by the Chief Electoral Officer, shall be present at any one time.
- (6) No candidate shall act as a scrutineer under this section.
- (7) A scrutineer appointed under this section may be appointed by facsimile transmission.

Section 183 was substituted, as from 6 December 1995, by section 61 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was substituted, as from 28 February 2002, by section 72 Electoral Amendment Act 2002 (2002 No 1).

#### **184 Ballot papers and certificate to be compared on recount**

- (1) At any recount made as aforesaid the Returning Officer shall produce to the District Court Judge all the used ballot papers, together with the Justice's certificate stating the total number of ballot papers used at the election.
- (2) If, on comparing the number of ballot papers stated in the certificate with the ballot papers used at the election, the District Court Judge finds that any of the ballot papers have been lost, stolen, or in any way interfered with during the interval between the official count and the recount, the official count made by the Returning Officer shall be deemed to be correct, and the result of the poll declared accordingly. Where in any such case there is an equality of votes between constituency candidates and the addition of a vote would entitle one of those constituency candidates to be declared elected, the Chief Electoral Officer shall determine by lot which candidate shall be elected.

Compare: 1956 No 107 s 118

Subsections (1) and (2) were amended, as from 6 December 1995, by section 62 Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words "or pieces thereof".

Subsection (2) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the

words “Chief Electoral Officer” for the words “Returning Officer” in the second place where they occur.

*Return of writ*

**185 Endorsement and return of writ**

- (1) As soon as practicable after the Chief Electoral Officer has, under section 179(2), declared the result for every district, the Chief Electoral Officer must—
  - (a) endorse on the writ—
    - (i) the full name of every constituency candidate declared to be elected; and
    - (ii) the date of the endorsement; and
  - (b) sign the writ; and
  - (c) immediately after endorsing and signing the writ, transmit the writ to the Clerk of the House of Representatives.
- (2) The date endorsed on the writ under subsection (1) is the day of the return of the writ.
- (3) The writ must be returned within the time specified in the writ for its return.
- (4) If any application for a recount of the votes for any constituency candidates has been made, the Chief Electoral Officer must postpone the return of the writ until the completion of every recount.
- (5) If, at any time before the expiry of the time for an application for a recount of the votes for constituency candidates, it appears to the Chief Electoral Officer that such an application may be made, the Chief Electoral Officer may postpone the return of the writ until that expiry.
- (6) Subsections (4) and (5) prevail over subsections (1) to (3).

Section 185 and 186 were substituted, as from 28 February 2002, by section 73 Electoral Amendment Act 2002 (2002 No 1).

**186 Chief Electoral Officer may correct writ**

- (1) If the Chief Electoral Officer is satisfied that the name of a member elected to represent an electoral district is not correctly recorded on the writ, the Chief Electoral Officer, before or after complying with the requirements of section 185(1),

may make any alterations to the writ necessary to ensure that the member's name is correctly recorded.

- (2) The Chief Electoral Officer may not make a correction under subsection (1) unless he or she has first consulted with the member concerned and the Returning Officer.
- (3) If the Chief Electoral Officer makes a correction under subsection (1) after complying with the requirements of section 185(1),—
  - (a) the Chief Electoral Officer must forward to the Clerk of the House of Representatives a copy of the writ as corrected; and
  - (b) that copy is to be treated for all purposes as the copy forwarded to the Clerk of the House of Representatives under section 185(1).

Section 185 and 186 were substituted, as from 28 February 2002, by section 73 Electoral Amendment Act 2002 (2002 No 1).

### *Disposal of ballot papers*

#### **187 Disposal of ballot papers, rolls, etc**

- (1) As soon as practicable after giving the Chief Electoral Officer the information specified in section 179(1), the Returning Officer must destroy or cause to be destroyed all unused ballot papers.
- (1A) As soon as practicable after complying with the requirements of subsection (1), the Returning Officer must—
  - (a) enclose or cause to be enclosed in 1 or more packets all parcels that have been received, or made up, by the Returning Officer and that contain any of the following documents:
    - (i) used ballot papers, including the special voters' ballot papers:
    - (ii) counterfoils of issued ballot papers and counterfoils of unused ballot papers:
    - (iii) spoilt ballot papers:
    - (iv) ballot papers set aside under section 171 or section 177; and
  - (b) enclose or cause to be enclosed in 1 or more packets the following materials:
    - (i) ballot paper accounts:

- (ii) copies of rolls (except the master roll):
  - (iii) books or other papers provided for by this Act:
  - (iv) all letters and other papers received from any manager of a polling place or issuing officer about special votes; and
- (c) ensure that each packet is properly secured and endorsed with a description of its contents, the name of the district, the name or other identifier of the polling place, and the date of the polling; and
  - (d) sign the endorsement on each packet; and
  - (e) ensure that every packet is sent to the Clerk of the House of Representatives without delay.
- (2) The Clerk of the House of Representatives shall forthwith give or send to the Returning Officer a receipt under his or her hand for the said packets and parcel.
  - (3) The Returning Officer shall attach to the master roll a list which shall set out the names and addresses of all special voters whose names were not on the printed roll (other than those whose names were not on that roll by virtue of section 115 of this Act) and which shall indicate the special voters whose votes have been disallowed. The master roll, and the attached list, shall then be sent by the Returning Officer to the Registrar of Electors for the district.
  - (4) The Registrar of Electors shall keep the master roll, and the attached list, until the next general election.
  - (5) Any registered elector of the district may inspect any master roll, and the attached list, at the Registrar's office without payment of any fee at any time when the office is open for the transaction of business.

Compare: 1956 No 107 s 121; 1981 No 120 s 38; 1990 No 1 s 62

Subsection (1)(a)(i) was amended, as from 6 December 1995, by section 63(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words "or pieces of ballot papers".

Subsection (1)(a)(iii) was amended, as from 6 December 1995, by section 63(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words "or pieces of spoilt ballot papers".

Subsection (1)(a)(iv) was amended, as from 6 December 1995, by section 63(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words "or pieces of ballot papers".

Subsection (1) was substituted and subsection (1A) was inserted, as from 28 February 2002, by section 74 Electoral Amendment Act 2002 (2002 No 1).

**188 Annotation of list of special voters**

- (1) A constituency candidate at an election who applies for a recount of the votes or a person who files an election petition may, by notice in writing to the Returning Officer, require the Returning Officer forthwith to annotate the list attached to the master roll pursuant to section 187(3) of this Act:

Provided that this subsection shall not apply where the Returning Officer receives the notice after he or she has forwarded to the Clerk of the House of Representatives the packets required, by section 187(1)(b) of this Act, to be forwarded to the Clerk of the House of Representatives.

- (2) The annotations shall show, in relation to each special voter whose vote is shown on the list as having been disallowed, the reason for the disallowance of the vote.
- (3) The annotated list shall be sent by the Returning Officer to the Registrar of Electors for the district.
- (4) Any registered elector of the district may inspect the annotated list at the Registrar's office without payment of any fee at any time when the office is open for the transaction of business.

Compare: 1956 No 107 s 121A; 1990 No 1 s 63

**189 Disposal of packets**

- (1) The packets and parcels must be safely kept for 6 months unopened, unless a court of competent jurisdiction or the House of Representatives orders them, or any of them, to be opened.
- (2) At the end of 6 months, the packets and parcels must be destroyed unopened in the presence of the Clerk of the House of Representatives and the Chief Electoral Officer.
- (3) Despite subsection (2), a packet or parcel may not be destroyed so long as the packet or parcel is, or may reasonably be expected to be, required for the purposes of an investigation into, or a prosecution of, an offence against this Act.

Section 189 was substituted, as from 28 February 2002, by section 75 Electoral Amendment Act 2002 (2002 No 1).

**190 Papers taken from parcels as evidence in certain cases**

- (1) Any ballot paper, and any copy of a roll, and any book purporting to be taken from any such parcel as aforesaid, and having written thereon respectively, under the hand of the Clerk of the House of Representatives, a certificate of the several particulars by this Act required to be endorsed on the parcel, shall be conclusive evidence in any Court or before any Committee of the House of Representatives that it was so taken and that it, if a ballot paper, was deposited and, if a roll or book, was kept or used at the election and polling place to which the endorsement and writing relate.
- (2) Every ballot paper so certified shall be evidence of a vote given at the poll, and of the correspondence of the number appearing on the ballot paper with the number appearing on any roll so certified as of the same election and polling place, according to the tenor of the said ballot paper.
- (3) But, in the case of the ballot papers set aside or selected by an issuing officer or by the Returning Officer, the correspondence shall be evidence only of some person having voted in the name appearing on the roll.

Compare: 1956 No 107 s 123

Subsections (1) and (2) were amended, as from 6 December 1995, by section 64(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or piece thereof”.

Subsections (1) and (2) were amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “polling place” for the word “booth”.

Subsection (3) was amended, as from 6 December 1995, by section 64(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or pieces thereof”.

Subsection (3) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “an issuing officer” for the words “a Deputy Returning Officer”.

*List seats***191 Election of other members**

- (1) When the Chief Electoral Officer has received from all Returning Officers the information required by section 179(1) of this Act to be forwarded to the Chief Electoral Officer, he or she shall proceed to determine which of the candidates whose

- names have been included in party lists submitted pursuant to section 127 of this Act have been elected.
- (2) The Chief Electoral Officer shall first ascertain from the information given under section 179(1)(a) the total number of all the party votes received by each of the parties listed on the part of the ballot paper that relates to the party vote.
  - (3) The Chief Electoral Officer shall enter those totals in separate columns under the name of each party in a working sheet in the manner prescribed in form 15.
  - (4) The Chief Electoral Officer shall disregard any total under the name of any party that—
    - (a) Has not achieved a total that is at least 5 percent of the total number of all the party votes received by all the parties listed on the part of the ballot paper that relates to the party vote; and
    - (b) Is a party in respect of which no constituency candidate who is either—
      - (i) A candidate for that party; or
      - (ii) A candidate for a component party of that party (being a component party that is not listed on the part of the ballot paper that relates to the party vote but is, in accordance with the details held by the Chief Electoral Officer under any of the provisions of sections 127(3A) and 128A of this Act, a component party of that party)—  
has had his or her name endorsed on the writ pursuant to section 185 of this Act as a person declared to be elected as a member of Parliament.
  - (4A) Where the Chief Electoral Officer disregards the name of a party in accordance with subsection (4) of this section, that party shall, for the purpose of this section and sections 192 and 193 of this Act, be deemed to have been deleted from the list of parties included in the part of the ballot paper that relates to the party vote.
  - (5) The Chief Electoral Officer shall then proceed to divide each of the remaining totals successively by a series of numbers beginning with 1, 3, 5, 7, 9, 11, 13 and thereafter by every odd number as may be necessary to ensure that the number of seats

required to be allocated by this section and sections 192 and 193 of this Act are allocated.

- (6) The quotient of each successive division shall be recorded on the working sheet.
- (7) Once the quotient of each successive division is entered on the working sheet, the Chief Electoral Officer shall then proceed to ascertain from a comparison of all the figures in the working sheet in form 15 listed under the heading “Quotients of Divisions”, the highest 120 quotients or such lower number as is required by subsection (8) of this section.
- (8) If any person whose name is endorsed on the writ pursuant to section 185 of this Act as a person declared to be elected as a member of Parliament, is—
  - (a) An independent; or
  - (b) A member of a political party that did not appear on the list of parties in that part of the ballot paper that relates to the party vote (not being a political party that is, in accordance with the details held by the Chief Electoral Officer under any of the provisions of sections 127(3A) and 128A of this Act, a component party of a political party that did appear on that list),—

the Chief Electoral Officer shall, for the purposes of applying subsection (7) of this section, deduct from the number of 120 the number of any such persons.
- (9) In any case where the lowest of the numbers required to be ascertained under subsection (7) of this section constitutes two or more numbers in different columns which are of exactly the same value, the Chief Electoral Officer shall determine by lot which of those numbers is to be selected for the purpose of subsection (7) of this section.
- (10) The Chief Electoral Officer, having ascertained the numbers required by subsection (7) of this section, shall draw a circle on the working sheet around each of those numbers.

Subsection (1) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “information required by section 179(1)” for the words “certificates required by section 179(4)”.

Subsection (2) was substituted, as from 6 December 1995, by section 65(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2) was further amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “the information given under section 179(1)(a)” for the words “the certificates”.

Subsection (4) was substituted, and subsection (4A) was inserted, as from 6 December 1995, by section 65(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was further amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “the writ” for the words “a writ”.

Subsection (8) was substituted, as from 6 December 1995, by section 65(3) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (8) was further amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “the writ” for the words “a writ”.

## **192 Determination of party eligibility for list seats**

- (1) Having ascertained the numbers required by section 191(7) of this Act, the Chief Electoral Officer shall then proceed to ascertain the number of seats in Parliament to which each remaining party listed in the part of the ballot paper that relates to the party vote is entitled by adding the number of circles in the column of numbers under the name of that party.
- (2) Subject to subsection (3) of this section, the Chief Electoral Officer shall then proceed, in respect of each remaining party listed in the part of the ballot paper that relates to the party vote, to deduct from the number of seats to which each party is entitled under subsection (1) of this section—
  - (a) The number of persons who stood as constituency candidates for that party and whose names were endorsed on the writ pursuant to section 185 of this Act as having been elected as members of Parliament; and
  - (b) The number of persons who stood as constituency candidates for a party that is, in accordance with the details held by the Chief Electoral Officer under any of the provisions of sections 127(3A) and 128A of this Act, a component party of that party and whose names were endorsed on a writ pursuant to section 185 of this Act as having been elected as members of Parliament.
- (3) The deduction described in subsection (2)(b) of this section shall not be made in respect of constituency seats gained by a

component party that is listed on the part of the ballot paper that relates to the party vote.

- (4) Subject to subsection (5) of this section, after the process of deduction described in subsection (2) of this section has been completed in respect of each party, the remainder derived therefrom shall be the number of seats to be allocated to that party from the list of candidates submitted pursuant to section 127 of this Act.
- (5) If any party listed in the part of the ballot paper that relates to the party vote has obtained, through the election of any of its constituency candidates or any of the constituency candidates for any party that is, in accordance with the details held by the Chief Electoral Officer under any of the provisions of sections 127(3A) and 128A of this Act, a component party of that party or both, a number of seats that is equal to or greater than the total number of seats in Parliament to which it would be entitled under subsection (1) of this section, that party shall not be allocated any seats from the list of candidates submitted by that party pursuant to section 127 of this Act, but the seats of the constituency candidates of that party who have been elected as members of Parliament shall not be affected.

Section 192 was substituted, as from 6 December 1995, by section 66 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2)(a) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “the writ” for the words “a writ”.

### **193 Selection of candidates**

- (1) Upon completing the procedures outlined in section 192 of this Act, the Chief Electoral Officer shall proceed to determine which of the candidates whose names appear on the list submitted pursuant to section 127 of this Act by each of the parties listed in the part of the ballot paper that relates to the party vote are entitled to be elected.
- (2) The Chief Electoral Officer shall determine which candidates are entitled to be elected by selecting those candidates on the list of each party, beginning with the first candidate on the list and ending with the lowest ranking candidate, which are equal in number to the number of seats to which that party is entitled

to have allocated from its list submitted pursuant to section 127 of this Act.

- (3) In performing the duties required by subsection (2) of this section, the Chief Electoral Officer shall disregard the name of any candidate whose name has been endorsed on the writ pursuant to section 185 of this Act, and the name of that candidate shall be deemed to have been deleted from the list submitted pursuant to section 127 of this Act.
- (4) Where all the candidates appearing on a list submitted by a party pursuant to section 127 of this Act are entitled to be selected, no further candidates for that party may be selected, notwithstanding that the party may be entitled to a greater number of seats than the number of candidates appearing on that list and those seats shall not be filled.
- (5) The Chief Electoral Officer shall, as soon as practicable after selecting the full names of those candidates entitled to be elected,—
  - (a) Declare those candidates to be elected by publishing in the *Gazette* the names of the members elected; and
  - (b) Forward to the Clerk of the House of Representatives a return listing the names of the members elected.
- (6) Notwithstanding any other provision of this section or any provision of sections 191 and 192 of this Act, the Chief Electoral Officer may proceed to select the names of those candidates entitled to be elected from lists submitted under section 127 of this Act, by such method and procedure as he or she thinks fit, including the use of computer technology:  
Provided that, before declaring any candidates to be elected under subsection (5) of this section, he or she shall complete the procedures required by sections 191 and 192 of this Act and this section.
- (7) In completing the procedures required by sections 191 and 192 of this Act and this section, the Chief Electoral Officer may use such assistants as he or she considers necessary.

Subsection (1) was amended, as from 6 December 1995, by section 67(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “the part of the ballot paper that relates to the party vote” for the words “Part B of the ballot paper”.

Subsection (3) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “the writ” for the words “a writ”.

Subsection (5) was substituted, as from 6 December 1995, by section 67(2) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (5)(a) was amended, as from 28 February 2002, by section 76 Electoral Amendment Act 2002 (2002 No 1) by inserting the word “full” before the word “names”.

### **193A Chief Electoral Officer may correct list of members elected**

- (1) If the Chief Electoral Officer is satisfied that the name of a member declared to be elected is not correctly recorded on a return forwarded to the Clerk of the House of Representatives under section 193(5)(b),—
  - (a) the Chief Electoral Officer may forward to the Clerk of the House a further return that correctly records the member’s name; and
  - (b) that further return—
    - (i) is to be treated for the purposes of section 54(2)(a) as dated the same as the earlier return; and
    - (ii) is to be treated for all purposes as the return forwarded to the Clerk of the House under section 193(5)(b).
- (2) The Chief Electoral Officer may not forward a further return to the Clerk of the House under subsection (1)(a) unless the Chief Electoral Officer has first consulted with the member concerned.

Section 193A was inserted, as from 28 February 2002, by section 77 Electoral Amendment Act 2002 (2002 No 1).

#### *Maintenance of order at elections*

### **194 Manager of polling place to maintain order**

- (1) Every manager of a polling place must maintain order and keep the peace at the polling place, and may, without any other warrant than this Act,—
  - (a) cause to be arrested and taken before a Justice any person reasonably suspected of committing or attempting

- to commit at the polling place any of the offences set out in section 201; or
- (b) cause to be removed a person who obstructs the approaches to the polling place or wilfully and unnecessarily obstructs the proceedings at the polling or conducts himself or herself in a disorderly manner or causes a disturbance or wilfully acts in any manner in defiance of the lawful directions of the manager of the polling place.
- (2) All constables must aid and assist the manager of the polling place in the performance of his or her duty.

Section 194 was substituted, as from 28 February 2002, by section 78 Electoral Amendment Act 2002 (2002 No 1).

#### *Adjournment of poll*

#### **195 Adjournment of poll**

- (1) Where the polling at any polling place cannot start or has to be suspended whether by reason of riot or open violence, natural disaster, or any other cause, the Returning Officer may adjourn the taking of the poll at that polling place to the following day, and if necessary from day to day until the poll can be taken, and shall, if he or she adjourns the taking of the poll, forthwith give public notice of the adjournment in such manner as he or she thinks fit.
- (2) Notwithstanding subsection (1) of this section, the poll shall not be kept open for more than 10 hours in all at any polling place.
- (3) Where the close of the poll at any polling place is adjourned under this section for any number of days, the day on or before which the writ is made returnable shall be postponed by the same number of days.

Compare: 1956 No 107 s 125

Subsection (1) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by omitting the word "Deputy"

*Custody of ballot papers***196 Obligation of persons in possession of ballot papers**

- (1) Every person who is, other than for the purpose of recording his or her vote, in possession of 1 or more ballot papers must—
  - (a) take all reasonable steps to ensure the safe custody of the ballot papers; and
  - (b) deal with the ballot papers in accordance with—
    - (i) any applicable provisions of this Act or regulations made under this Act; and
    - (ii) in the case of an electoral official or a polling place official, any applicable directions given under section 20A or section 158A; and
    - (iii) in the case of a person involved in performing or assisting with the performance of a contract with an electoral official or a polling place official, the terms of the relevant contract and any instructions given by or on behalf of the official.
- (2) Subsection (1) applies to a person involved in performing or assisting with the performance of a contract for the carriage of ballot papers only if the person is aware of that fact or, because of indications on the box, parcel, or packet in which the ballot papers are contained, ought to be aware of the fact.
- (3) Whenever ballot papers are delivered to a Returning Officer by or on behalf of the printer who has printed the ballot papers,—
  - (a) the Returning Officer must give or send the printer a receipt specifying the total number of ballot papers received by the Returning Officer; and
  - (b) the printer must see that all copies of ballot papers other than those delivered to the Returning Officer are immediately destroyed.
- (4) Every person commits an offence and is liable on summary conviction to a fine of \$2,000 who fails to comply with a requirement imposed on the person by this section.

Section 196 was substituted, as from 6 December 1995, by section 68 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 196 was further substituted, as from 28 February 2002, by section 79 Electoral Amendment Act 2002 (2002 No 1).

**196A Unlawful possession of ballot paper**

- (1) Every person is liable on summary conviction to a fine not exceeding \$2,000 who, without authority under this Act or regulations made under this Act, obtains possession of any ballot paper.
- (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who retains any ballot paper in his or her possession after leaving a polling place.

Section 196A was inserted, as from 28 February 2002, by section 79 Electoral Amendment Act 2002 (2002 No 1).

*Offences at elections*

**197 Interfering with or influencing voters**

- (1) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000 who at an election—
  - (a) In any way interferes with any elector, either in the polling place or while the elector is on the way to the polling place with the intention of influencing the elector or advising the elector as to the elector's 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:

Provided that this paragraph shall not restrict the publication by radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989 of—

- (i) Any advertisement placed by the Chief Electoral Officer or a Returning Officer; or
- (ii) Any non-partisan advertisement broadcast, as a community service, by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989; or

- (iii) Any news in relation to an election:
- (d) At any time before the close of the poll, conducts in relation to the election a public opinion poll of persons voting before polling day:
  - (e) At any time on polling day before the close of the poll, conducts a public opinion poll in relation to the election:
  - (f) At any time on polling day before the close of the poll, or at any time on any of the 3 days immediately preceding polling day, prints or distributes or delivers to any person anything being or purporting to be in imitation of any ballot paper to be used at the poll and having thereon the names of the candidates or the parties or any of them, together with any direction or indication as to the candidate or party for whom or for which any person should or should not vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote:
  - (g) 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,—
    - (i) Any statement advising or intended or likely to influence any elector as to the candidate or party for whom the elector should or should not vote; or
    - (ii) Any statement advising or intended or likely to influence any elector to abstain from voting; or
    - (iii) Any party name, emblem, slogan, or logo; or
    - (iv) Any ribbons, streamers, rosettes, or items of a similar nature in party colours:

Provided that this paragraph shall not apply to any statement, name, emblem, slogan, or logo in a newspaper published before 6 pm on the day before polling day:

Provided also that where any statement, name, emblem, slogan, or logo which does not relate specifically to the election campaign and which is so exhibited before polling day in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a political party, it shall not

be an offence to leave the statement, name, emblem, slogan, or logo so exhibited on polling day:

Provided further that this paragraph shall not restrict the publication of any party name in any news which relates to an election and which is published in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989:

Provided further that this paragraph shall not apply to ribbons, streamers, rosettes, or items of a similar nature, which are worn or displayed by any person (not being an electoral official) on his or her person or on any vehicle in party colours or to a party lapel badge worn by any person (not being an electoral official):

- (h) At any time on polling day before the close of the poll prints or distributes or delivers to any person any card or paper (whether or not it is an imitation ballot paper) having thereon the names of the candidates or the parties or any of them:
  - (i) Exhibits or leaves in any polling place any card or paper having thereon any direction or indication as to how any person should vote or as to the method of voting:
  - (j) Subject to any regulations made under this Act, 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 any person any written or oral information derived from a main or supplementary roll as to any name or number on the main roll or any supplementary roll being used at the election:
    - (ii) Permits or offers to permit any person to examine any copy of the main roll or any supplementary roll being used at the election.
- (2) It shall be a defence to a prosecution for an offence against subsection (1)(g) of this section that relates to the exhibition in or in view of a public place of a statement, name, emblem, slogan, or logo, if the defendant proves that—
- (a) The exhibition was inadvertent; and

- (b) The defendant caused the exhibition to cease as soon as the defendant was notified by a Returning Officer or a manager of the polling place that the exhibition was taking place.
- (2A) It is a defence to a prosecution for an offence against paragraph (g) of subsection (1) that relates to the publication on an Internet web site of a statement or other material specified in that paragraph, if the defendant proves that—
- (a) the statement or material was placed on the web site before polling day; and
  - (b) the defendant did not operate or permit the operation of systems that cause the statement or material on the web site to be made available, on polling day, to persons other than persons who voluntarily access the web site; and
  - (c) the defendant did not, on polling day, distribute, broadcast, or exhibit in or in view of a public place, or publish, or at any time cause to be published, in an issue of a newspaper or magazine that is first issued on polling day any material promoting or advertising the web site.
- (3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Act.

Compare: 1956 No 107 s 127; 1990 No 1 s 65(1)

Subsection (1)(a) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “place” for the word “booth” in both places where it appears.

Subsection (1)(f) was amended, as from 6 December 1995, by section 69(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or piece of a ballot paper”.

Subsection (1)(h) was amended, as from 6 December 1995, by section 69(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or imitation piece of a ballot paper”.

Subsection (1)(i) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “place” for the word “booth”.

Subsection (2)(b) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “manager of the polling place” for the words “Deputy Returning Officer”.

Subsection (2A) was inserted, as from 28 February 2002, by section 80 Electoral Amendment Act 2002 (2002 No 1).

**198 Power to remove statements, names, emblems, slogans, or logos**

- (1) The Returning Officer may at any time on polling day before the close of the poll cause to be removed or obliterated—
  - (a) Any statement advising or intended or likely to influence any elector as to the candidate or party for whom the elector should or should not vote; or
  - (b) Any statement advising or intended or likely to influence any elector to abstain from voting; or
  - (c) Any party name, emblem, slogan, or logo,—  
which is exhibited in or in view of any public place.
- (2) Nothing in subsection (1)(c) of this section shall apply to ribbons, streamers, rosettes, or items of a similar nature which are worn or displayed by any person (whether on his or her person or on any vehicle) in his or her party's colours or to a party lapel badge worn by any person.
- (3) Nothing in subsection (1) of this section shall apply to a statement, party name, emblem, slogan, or logo which does not relate specifically to the election campaign and which was so exhibited before polling day in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a political party.

Compare: 1956 No 107 s 127A(1)-(3); 1981 No 120 s 40(1); 1990 No 1 s 66

**199 Recovery of expenses**

All expenses incurred by the Returning Officer in carrying out the power conferred by section 198(1) of this Act may be recovered by the Returning Officer from the persons by whom or by whose direction the statement, name, emblem, slogan, or logo was exhibited, as a debt due by them jointly and severally to the Crown.

Compare: 1956 No 107 s 127A(4); 1981 No 120 s 40(1)

**199A Publishing false statements to influence voters**

Every person is guilty of a corrupt practice who, with the intention of influencing the vote of any elector, at any time on polling day before the close of the poll, or at any time on any of the 2 days immediately preceding polling day, publishes, distributes, broadcasts, or exhibits, or causes to be published,

distributed, broadcast, or exhibited, in or in view of any public place a statement of fact that the person knows is false in a material particular.

Section 199A was inserted, as from 28 February 2002, by section 81 Electoral Amendment Act 2002 (2002 No 1).

## **200 Erasing and altering official mark on ballot paper**

Every person shall be liable on summary conviction to a fine not exceeding \$2,000 who erases, obliterates, or alters any official mark, stamp, or writing on any ballot paper, or places thereon any writing, print, or other matter which might lead persons to believe that it was put thereon by any official or person duly authorised in that behalf.

Compare: 1956 No 107 s 129; 1990 No 1 s 67(1)

Section 200 was amended, as from 6 December 1995, by section 70 Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or piece of a ballot paper”.

## **201 Offences in respect of ballot papers and ballot boxes**

- (1) Every person commits an offence against this section who—
  - (a) Forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any ballot paper, or the official mark on any ballot paper:
  - (b) Without due authority supplies any ballot paper to any person:
  - (c) Fraudulently puts into any ballot box any paper other than the ballot paper that he or she is authorised by law to put therein:
  - (d) Fraudulently takes out of a polling place any ballot paper:
  - (e) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box, or box or packet or parcel of ballot papers, then in use for the purposes of an election, or in course of transmission by post or otherwise, or thereafter whenever the same may be kept as a record of the election.
- (2) Every person who commits an offence against this section shall be liable on conviction on indictment,—

- (a) if a Returning Officer or a polling place official in attendance at a polling place, to imprisonment for a term not exceeding 2 years:
  - (b) If any other person, to imprisonment for a term not exceeding 6 months.
- (3) Every person who attempts to commit any offence against this section shall be liable on conviction on indictment to imprisonment for a term not exceeding one-half of the longest term to which a person committing the offence may be sentenced.
- (4) Every person who commits an offence against this section or who attempts to commit an offence against this section is guilty of a corrupt practice.

Compare: 1956 No 107 s 130; 1990 No 1 s 68

Subsections (1)(a) to (d) were amended, as from 6 December 1995, by section 71(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or piece of a ballot paper”.

Subsection (1)(d) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the word “place” for the words “booth”.

Subsection (1)(e) was amended, as from 6 December 1995, by section 71(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or of pieces of ballot papers”.

Subsection (2)(a) was substituted, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1).

## **202 Property to be stated as being in Returning Officer**

In any prosecution for an offence in relation to any ballot boxes, ballot papers, or marking instruments at an election, the property in the boxes, ballot papers, and instruments may be stated as being in the Returning Officer.

Compare: 1956 No 107 s 131

Section 202 was amended, as from 6 December 1995, by section 72 Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “pieces of ballot papers”.

## **203 Infringement of secrecy**

- (1) Every electoral official, polling place official, scrutineer, or other person appointed for the purposes of this Act shall use or disclose information acquired by him or her in that capacity only in accordance with his or her official duty or his or her duty as a scrutineer, as the case may require.

- (2) No person, except for some purpose authorised by law, shall—
- (a) Interfere with or attempt to interfere with a voter when marking his or her vote:
  - (b) attempt to obtain in a polling place information as to the candidate for whom or the party for which a voter in the polling place is about to vote or has voted:
  - (c) communicate at any time to any person any information obtained in a polling place as to the candidate for whom or the party for which any voter at the polling place is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the polling place.
- (3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the candidate for whom or the party for which any vote is given in any particular ballot paper.
- (4) No person shall directly or indirectly induce any voter to display his or her ballot paper after he or she has marked it, so as to make known to any person the name of any candidate for or against whom he or she has voted or the name of the party for which he or she has voted.

Compare: 1956 No 107 s 132(1)-(4); 1983 No 104 s 20

Subsection (1) was amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “electoral official, polling place official, scrutineer” for the words “official, clerk, scrutineer, interpreter”.

Subsection (2)(b) was substituted, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (2)(c) was amended, as from 6 December 1995, by section 73(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or any piece of the ballot paper”.

Subsection (2)(c) was substituted, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4) was amended, as from 6 December 1995, by section 73(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or any piece of his or her ballot paper”.

**204 Infringement of secrecy constitutes corrupt practice**

Every person who commits an offence against section 203 of this Act is guilty of a corrupt practice.

Compare: 1956 No 107 s 132(5); 1990 No 1 s 69

*Distribution of page and line numbers*

**205 Distribution of page and line numbers**

*[Repealed]*

Section 205 was repealed, as from 6 December 1995, by section 74 Electoral Amendment Act (No 2) 1995 (1995 No 61).

*Candidates' election expenses*

**206 Periods for claiming and paying expenses**

Subject to such exceptions as are permitted by this Act, it is hereby declared as follows:

- (a) No claim against a candidate, or against any agent of a candidate, in respect of any election expenses shall be recoverable unless it is sent in to the candidate within 20 working days after the day on which the candidate returned is declared to be elected:
- (b) All election expenses incurred by or on behalf of a candidate shall be paid within 40 working days after the day on which the candidate returned is declared to be elected, and not otherwise:
- (c) Every person who makes any payment in breach of any of the provisions of this section is guilty of an illegal practice.

Compare: 1956 No 107 s 133

Paragraph (a) was amended, as from 28 February 2002, by section 82(a) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression "20 working days" for the expression "30 days".

Paragraph (b) was amended, as from 28 February 2002, by section 82(b) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression "40 working days" for the expression "60 days".

**207 Procedure where claim disputed**

- (1) If a candidate, in the case of a claim for election expenses sent in to him or her within the time limited by this Act, disputes it, or fails to pay it within the said period of 40 working days, the

claim shall be deemed to be a disputed claim, and the claimant may, if he or she thinks fit, within 20 working days after the expiration of the said 40 working days, bring an action for the disputed claim in any Court of competent jurisdiction.

- (2) Any sum paid by the candidate in pursuance of the judgment or order of the Court in any such action shall be deemed to be paid within the time limited by this Act.

Compare: 1956 No 107 s 134

Subsection (1) was amended, as from 28 February 2002, by section 83 Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “40 working days” for the expression “60 days” in both places where it occurs. It was further amended by substituting the expression “20 working days” for the expression “30 days”.

#### **208 Leave to pay claim after time limited**

- (1) On cause shown to the satisfaction of a District Court, the Court may, on application by the claimant or by the candidate, grant leave to the candidate to pay a disputed claim, or to pay a claim for any election expenses, although sent in after the time limited by this Act.
- (2) Any sum specified in the order granting that leave may be paid by the candidate, and when so paid shall be deemed to be paid within the time limited by this Act.

Compare: 1956 No 107 s 135

#### **209 Payments to be vouched by bill**

Every payment made in respect of any election expenses shall, except when less than \$50, be vouched by a bill stating the particulars, and by a receipt.

Compare: 1956 No 107 s 136; 1983 No 104 s 21(1)

Section 209 was amended, as from 28 February 2002, by section 84 Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “\$50” for the expression “\$20”.

#### **210 Return of election expenses**

- (1) Within 70 working days after polling day, every constituency candidate at the election must transmit to the Returning Officer a return setting out—
- (a) the constituency candidate’s election expenses; and

- (b) the name and address of each person who made a constituency candidate donation to the constituency candidate and the amount of each such donation; and
  - (c) if an anonymous constituency candidate donation is made to the constituency candidate, and the amount of that donation exceeds \$1,000, the amount of each such donation.
- (2) Every return under subsection (1) must be on a form provided by the Chief Electoral Officer.
- (3) Where the candidate is outside New Zealand on the day on which the candidate returned is declared elected, the return shall be transmitted by the candidate to the Chief Electoral Officer within 15 working days after the date of the candidate's return to New Zealand.
- (4) Every candidate who fails to transmit the return to the Chief Electoral Officer within the time prescribed by this section shall be liable on summary conviction to a fine not exceeding \$1,000, and, if he or she has been elected, to a further fine not exceeding \$400 for every day on which he or she sits or votes in the House of Representatives until the return is transmitted.
- (5) Every candidate who transmits a return that is false in any material particular—
  - (a) Is, if the candidate transmits the return knowing that the return is false in any material particular, guilty of a corrupt practice; and
  - (b) Is, in any other case, guilty of an illegal practice, unless the candidate proves—
    - (i) That he or she had no intention to mis-state or conceal the facts; and
    - (ii) That he or she took all reasonable steps in the circumstances to ensure that the information was accurate.
- (6) Every person charged with an offence against subsection (5)(a) of this section may be convicted of an offence against subsection (5)(b) of this section.
- (7) It shall be the duty of the Chief Electoral Officer to see that the provisions of this section are faithfully complied with.

- (8) Where the Chief Electoral Officer believes that any person has committed an offence against this section, the Chief Electoral Officer shall report the facts on which that belief is based to the Police.
- (9) In subsection (1) of this section, the term **constituency candidate donation**, in relation to a constituency candidate at an election,—
- (a) Means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) of a sum or value of more than \$1,000 (such amount being inclusive of any goods and services tax and of a series of donations made by or on behalf of any one person that aggregate more than \$1,000) made to the constituency candidate, or to any person on the constituency candidate's behalf, for use by or on behalf of the constituency candidate in the campaign for his or her election; and
  - (b) Includes, where goods or services are provided to the constituency candidate, or to any person on the constituency candidate's behalf, under a contract at 90 percent or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services; but
  - (c) Does not include the labour of any person which is provided to the constituency candidate free of charge by that person.

Compare: 1956 No 107 s 137; 1983 No 104 s 22; 1990 No 1 s 72(1)

Section 210 was substituted, as from 6 December 1995, by section 75 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsections (1) and (2) were substituted, as from 28 February 2002, by section 85(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (3) was amended, as from 28 February 2002, by section 85(3) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression "15 working days" for the expression "21 days".

Subsections (3), (4), (7) and (8) were amended, as from 28 February 2002, by section 85(2) Electoral Amendment Act 2002 (2002 No 1) by substituting the words "Chief Electoral Officer" for the words "Returning Officer" wherever they occur.

Subsection (9) was amended, as from 28 February 2002, by section 85(4) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “constituency candidate donation” for the expression “election donation”.

### **210A Time limit for prosecutions**

- (1) A prosecution against a candidate for an offence against subsection (4) or subsection (5) of section 210 must be commenced within 6 months after the expiry of the period within which the candidate is required by section 210 to transmit a return.
- (2) However, if the person to be charged has been reported by the High Court in its report on the trial of an election petition to have been proved guilty of an offence against subsection (4) or subsection (5) of section 210, a prosecution must be commenced within whichever of the following periods is the later to expire:
  - (a) the period specified in subsection (1) for the bringing of prosecutions:
  - (b) 3 months after the date of the report.
- (3) This section applies whether the person is proceeded against summarily or on indictment.

Section 210A was inserted, as from 28 February 2002, by section 86 Electoral Amendment Act 2002 (2002 No 1).

### **211 Return to be available for public inspection**

- (1) The Chief Electoral Officer must keep every return received under section 210 for the period beginning with the date of the receipt of the return and ending with the close of polling day for the second general election that takes place after the date on which the return was received by the Chief Electoral Officer.
- (2) During that period each return must be open for inspection by any person on payment of any charges that may be made under the Official Information Act 1982; and, at the expiration of that period, the Chief Electoral Officer must cause each return to be destroyed.
- (3) The Chief Electoral Officer—
  - (a) must, as soon as practicable after receiving a return for a district, send a copy of the return—

- (i) to the Returning Officer for the district; and
    - (ii) to the Electoral Commission; and
  - (b) may make copies of the returns publicly available by any means and for any time that the Chief Electoral Officer considers appropriate.
- (4) Each Returning Officer must keep the copy of the return received, under subsection (3)(a)(i), for the period beginning with the date of the receipt of the copy and ending with the earlier of the following dates:
- (a) the date on which the period of 6 months after that receipt expires;
  - (b) the date on which the Returning Officer's employment expires.
- (5) During the relevant period under subsection (4), the Returning Officer must keep the copy of the return open for inspection by any person on payment of any charges that may be made under the Official Information Act 1982; and, at the expiration of the relevant period, the Official Information Act 1982 must cause the copy to be destroyed.

Section 211 was substituted and section 212 was repealed, as from 28 February 2002, by section 87(1) Electoral Amendment Act 2002 (2002 No 1).

## **212 Transmission of copy of return to Chief Electoral Officer** *[Repealed]*

Subsection (1) was substituted, as from 6 December 1995, by section 76 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 211 was substituted and section 212 was repealed, as from 28 February 2002, by section 87(1) Electoral Amendment Act 2002 (2002 No 1).

## **213 Maximum amount of election expenses**

- (1) Subject to this section and to sections 214 and 214A, in this Act,—
- election activity**, in relation to a candidate at an election in any district, means an activity—
- (a) which is carried out by the candidate or with the candidate's authority; and
  - (b) which comprises—
    - (i) advertising of any kind; or
    - (ii) radio or television broadcasting; or

- (iii) publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; and
- (c) which—
  - (i) relates to the campaign for the return of the candidate in the candidate's capacity as a candidate for the district and not to the candidate—
    - (A) in his or her capacity as a member of Parliament or as the holder of any other office; or
    - (B) in any other capacity; or
  - (ii) encourages or persuades or appears to encourage or persuade voters not to vote for a candidate or for a party registered under Part 4; or
  - (iii) both; and
- (d) which takes place within the 3 months immediately preceding polling day

**election expenses**, in relation to a candidate at an election,—

- (a) means expenses that are incurred by or on behalf of the candidate in respect of any election activity; and
- (b) includes expenses that are incurred by or on behalf of the candidate, before or after the 3 months immediately preceding polling day, in respect of any election activity; and
- (c) includes the reasonable market value of any materials applied in respect of any election activity which are given to the candidate or which are provided to the candidate free of charge or below reasonable market value; and
- (d) includes the cost of any printing or postage in respect of any election activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the candidate; but
- (e) does not include the cost of any of the following:
  - (i) travel;
  - (ii) the conduct of any survey or public opinion poll;
  - (iii) the labour of any person which is provided to the candidate free of charge by that person;

- (iv) the replacement of any materials that, during their application in respect of an election activity, have been destroyed or rendered unusable by 1 or more persons (other than the candidate or any person acting on his or her behalf) or by the occurrence of an event beyond the control of the candidate and any person acting on his or her behalf.
- (2) The total election expenses of a candidate shall not,—
- (a) In the case of a candidate at a general election, exceed \$20,000 (which sum shall be inclusive of goods and services tax); or
  - (b) In the case of a candidate at a by-election, exceed \$40,000 (which sum shall be inclusive of goods and services tax).
- (3) Every candidate or other person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of the maximum amount prescribed by this section is,—
- (a) If the act is done with knowledge that the payment is in excess of the maximum amount prescribed by this section, guilty of a corrupt practice; and
  - (b) In any other case, guilty of an illegal practice unless the candidate or other person proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the maximum amount prescribed by this section.
- (4) Where any activity of the kind described in paragraphs (a) to (c) of the definition of the term **election activity** (as set out in subsection (1) of this section) is, in relation to a candidate at an election, carried on both before and within the 3 months immediately preceding polling day, the expenses incurred in respect of the activity (being expenses incurred by or on behalf of the candidate) shall be properly apportioned so that a fair proportion of those expenses is attributed to the carrying on of the activity in those 3 months, and the fair proportion of those expenses, but no other portion of those expenses, shall be election expenses.

- (5) Nothing in this section shall be construed as validating any use of public money that would otherwise be unlawful.

Compare: 1956 No 107 s 139; 1990 No 1 s 74(1)

Subsection (1) was amended, as from 6 December 1995, by section 77(1) Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the expression “sections 214 and 214A” for the expression “section 214”.

Election activity: this definition was amended, as from 6 December 1995, by section 77(2)(a) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “and in relation to a candidate included in a list submitted pursuant to section 127 of this Act”.

Election activity: paragraph (b) was amended, as from 6 December 1995, by section 77(2)(b) Electoral Amendment Act (No 2) 1995 (1995 No 61) by omitting the words “or as a candidate included in a list submitted under section 127 or both capacities”.

Electoral expenses: paragraph (c) was amended, as from 6 December 1995, by section 77(3) Electoral Amendment Act (No 2) 1995 (1995 No 61) by inserting the words “or below reasonable market value”.

Subsection (1) was substituted, as from 28 February 2002, by section 88(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (2) was substituted, as from 6 December 1995, by section 77(4) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (4) was amended, as from 28 February 2002, by section 88(2) Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “(a) to (c)” for the expression “(a) to (d)”.

## **214 Apportionment of election expenses**

- (1) Where any election activity relates exclusively to campaigns for the return of 2 or more candidates, any election expenses in respect of that election activity shall be apportioned in relation to the coverage provided by that election activity in relation to each of those candidates.
- (2) Notwithstanding subsection (1) of this section, where any candidate receives less than 10 percent of the coverage provided by any election activity, that expense shall not be included in the election expenses of that candidate.
- (3) For the purposes of this section, coverage provided by any election activity shall be calculated in such manner as is appropriate in relation to the form of election activity.

Compare: 1956 No 107 s 139A; 1990 No 1 s 74

*Advertising*

Section 214A and the heading “Advertising” were inserted, as from 6 December 1995, by section 78 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**214A Advertisements for party lists**

Where any advertisement that is published or caused or permitted to be published in any newspaper, periodical, poster, or handbill, or is broadcast or caused or permitted to be broadcast over any radio or television station,—

- (a) Encourages or persuades or appears to encourage or persuade voters to vote for any party listed on the part of the ballot paper that relates to the party vote; and
- (b) Gives more than 10 percent of the coverage provided in the advertisement to a person who is a candidate at any election in any district in a manner which either—
  - (i) Features that candidate in his or her capacity as a list candidate; or
  - (ii) Features that candidate as endorsing or supporting the party or its party list; and
- (c) Is or is to be published or broadcast in the district in which the person described in paragraph (b) of this section is a candidate,—

the cost of the publishing or broadcasting of that advertisement shall form part of the candidate’s election expenses unless that advertisement is published or broadcast to more or less the same extent in 10 other electoral districts in addition to the electoral district referred to in paragraph (c) of this subsection.

Section 214A and the heading “Advertising” were inserted, as from 6 December 1995, by section 78 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 214A was amended, as from 28 February 2002, by section 89 Electoral Amendment Act 2002 (2002 No 1) by inserting the word “poster,” after the word “periodical,”.

*Political parties’ election expenses*

Sections 214B and 214C and the heading “Political parties election expenses” were inserted, as from 6 December 1995, by section 79 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**214B Maximum amount of parties’ election expenses**

- (1) Subject to this section, in this Act,—

**Election activity**, in relation to a party that is registered under Part 4 of this Act, means an activity—

- (a) Which is carried out by the party or with the party's authority; and
- (b) Which comprises—
  - (i) Advertising of any kind; or
  - (ii) Radio or television broadcasting; or
  - (iii) Publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; and
- (c) Which—
  - (i) Encourages or persuades or appears to encourage or persuade voters to vote for the party; or
  - (ii) Encourages or persuades or appears to encourage or persuade voters not to vote for any other party registered under Part 4 of this Act; or
  - (iii) Both; and
- (d) Which takes place within the 3 months immediately preceding polling day:

Election activity: paragraph (c)(ii) of this definition was substituted, as from 28 February 2002, by section 90(1) Electoral Amendment Act 2002 (2002 No 1).

**Election expenses**, in relation to a party that is registered under Part 4 of this Act,—

- (a) Means expenses that are incurred by or on behalf of the party in respect of any election activity; and
- (b) Includes expenses that are incurred by or on behalf of the party, before or after the 3 months immediately preceding polling day, in respect of any election activity; and
- (c) Includes the reasonable market value of any materials applied in respect of any election activity which are given to the party or which are provided to the party free of charge or below reasonable market value; and
- (d) Includes the cost of any printing or postage in respect of any election activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the party; but
- (e) does not include the cost of any of the following:
  - (i) travel:

- (ii) the conduct of any survey or public opinion poll:
  - (iii) the labour of any person which is provided to the party free of charge by that person:
  - (iv) the replacement of any materials that, during their application in respect of an election activity, have been destroyed or rendered unusable by 1 or more persons (other than a person acting on behalf of the party) or by the occurrence of an event beyond the control of any person acting on behalf of the party; an.
- (f) Does not include expenditure relating exclusively to the election expenses of any of that party's individual constituency candidates under section 213 of this Act; and
  - (g) Does not include allocations of time and money made to political parties by the body responsible for such allocations under the Broadcasting Act 1989.

Election expenses: paragraph (e) of this definition was substituted, as from 28 February 2002, by section 90(2) Electoral Amendment Act 2002 (2002 No 1).

- (2) In the case of a general election, the total election expenses of a party that is registered under Part 4 of this Act shall not,—
  - (a) If the party is listed in the part of the ballot paper that relates to the party vote, exceed \$1,000,000 plus \$20,000 for each constituency contested by a candidate for that party (which sum shall be inclusive of goods and services tax); and
  - (b) If the party is not listed in the part of the ballot paper that relates to the party vote, exceed \$20,000 for each constituency contested by a candidate for that party (which sum shall be inclusive of goods and services tax).
- (3) Every person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of the maximum amount prescribed by this section is,—
  - (a) If the act is done with knowledge that the payment is in excess of the maximum amount prescribed by this section, guilty of a corrupt practice; and
  - (b) In any other case, guilty of an illegal practice unless the person proves that he or she took all reasonable steps

to ensure that the election expenses did not exceed the maximum amount prescribed by this section.

- (4) Where any activity of the kind described in paragraphs (a) to (c) of the definition of the term election activity (as set out in subsection (1) of this section) is, in relation to a party that is registered under Part 4 of this Act, carried on both before and within the 3 months immediately preceding polling day, the expenses incurred in respect of the activity (being expenses incurred by or on behalf of the party) shall be properly apportioned so that a fair proportion of those expenses is attributed to the carrying on of the activity in those 3 months, and the fair proportion of those expenses, but no other portion of those expenses, shall be election expenses.
- (5) Nothing in this section shall be construed as validating any use of public money that would otherwise be unlawful.

Sections 214B and 214C and the preceding heading were inserted, as from 6 December 1995, by section 79 Electoral Amendment Act (No 2) 1995 (1995 No 41).

Subsections (4) and (5) were inserted, as from 1 July 1996, by section 6 Electoral Amendment Act (No 2) 1996 (1996 No 54).

#### **214BA Periods for claiming and paying expenses**

- (1) No claim against a party that is registered under Part 4 in respect of any election expenses is recoverable unless it is sent in to the secretary of the party within 20 working days after the day on which the declaration required by section 193(5) is made.
- (2) All election expenses incurred by or on behalf of a party that is registered under Part 4 must be paid within 40 working days after the day on which that declaration is made, and not otherwise.
- (3) Every person who makes any payment in breach of any of the provisions of this section is guilty of an illegal practice.
- (4) This section is subject to sections 214BB and 214BC.

Sections 214BA to 214BD were inserted, as from 28 February 2002, by section 91 Electoral Amendment Act 2002 (2002 No 1).

**214BB Procedure if claim disputed**

- (1) If a party that is registered under Part 4, in the case of a claim for election expenses sent in to the secretary of the party within the time limited by this Act, disputes it, or fails to pay it within the period of 40 working days specified in section 214BA(2), then—
  - (a) the claim is to be treated as a disputed claim; and
  - (b) the claimant may, if he or she thinks fit, within 20 working days after the expiration of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.
- (2) Any sum paid by the party in accordance with the judgment or order of the court in any such action is to be treated as paid within the time limited by this Act.

Sections 214BA to 214BD were inserted, as from 28 February 2002, by section 91 Electoral Amendment Act 2002 (2002 No 1).

**214BC Leave to pay claim after time limited**

- (1) On cause shown to the satisfaction of a District Court, the Court may, on application by the claimant or by the party that is registered under Part 4, grant leave to that registered party to pay a disputed claim, or to pay a claim for any election expenses, although sent in after the time limited by this Act.
- (2) Any sum specified in the order granting that leave may be paid by that registered party, and when so paid is to be treated as paid within the time limited by this Act.

Sections 214BA to 214BD were inserted, as from 28 February 2002, by section 91 Electoral Amendment Act 2002 (2002 No 1).

**214BD Payments to be vouched by bill**

Every payment made in respect of any election expenses of a party that is registered under Part 4, other than a payment that is less than \$100, must be vouched by a bill stating the particulars, and by a receipt.

Sections 214BA to 214BD were inserted, as from 28 February 2002, by section 91 Electoral Amendment Act 2002 (2002 No 1).

### **214C Return of election expenses**

- (1) Within 50 working days after the day on which the result of an election of candidates whose names appear on the party lists is declared by the Chief Electoral Officer in accordance with section 193(5), the secretary of each political party registered under Part 4 must ensure that the Electoral Commission receives a return of the party's election expenses (which return must be on a form provided by the Electoral Commission) and the auditor's report which has been obtained under section 214E and which relates to that return.
- (2) Every secretary of a political party registered under Part 4 who fails, without reasonable excuse, to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- (3) Every Secretary of a political party registered under Part 4 of this Act who forwards to the Electoral Commission under subsection (1) of this section a return that is false in any material particular—
  - (a) Is, if the Secretary forwards the return knowing that the return is false in any material particular, guilty of a corrupt practice and is liable on conviction on indictment to imprisonment for a term not exceeding one year or to a fine not exceeding \$20,000, or to both; and
  - (b) Is, in any other case, guilty of an illegal practice and is liable on conviction on indictment to a fine not exceeding \$20,000, unless the Secretary proves—
    - (i) That he or she had no intention to mis-state or conceal the facts; and
    - (ii) That he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- (4) Every person charged with an offence against subsection (3)(a) of this section may be convicted of an offence against subsection (3)(b) of this section.
- (5) It shall be the duty of the Electoral Commission to see that the provisions of this section are complied with.
- (6) Where the Electoral Commission believes that any person has committed an offence against subsection (2) or subsection

(3) of this section, the Electoral Commission shall report the facts on which that belief is based to the Police.

Sections 214B and 214C and the preceding heading were inserted, as from 6 December 1995, by section 79 Electoral Amendment Act (No 2) 1995 (1995 No 41). *See* section 80(2) Electoral Amendment Act (No 2) 1995 (1995 No 61) as to the commencement or provisions relating to auditors.

Subsections (1) and (2) were substituted, as from 28 February 2002, by section 92 Electoral Amendment Act 2002 (2002 No 1).

#### **214D Appointment of auditors**

- (1) Every party registered under Part 4 of this Act shall appoint an auditor.
- (2) None of the following persons may be appointed or act as an auditor under subsection (1) of this section:
  - (a) An employee or partner of a candidate:
  - (b) An officer or employee of a political party:
  - (c) A body corporate:
  - (d) A person who, by virtue of section 199(1) of the Companies Act 1993, may not be appointed or act as auditor of a company:
  - (e) A Returning Officer or Deputy Returning Officer:
  - (f) A candidate or agent of a candidate.
- (2A) On the registration of a political party under section 67, the person named, under section 63(2)(c)(v), in the party's application for registration as the party's auditor is to be taken to have been appointed under subsection (1).
- (3) Where an auditor appointed or taken to have been appointed by a party under subsection (1) ceases, or does not commence, for any reason to hold office as such or becomes ineligible as provided in subsection (2), the party must, without delay, appoint another auditor.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2A) was inserted, as from 28 February 2002, by section 93 Electoral Amendment Act 2002 (2002 No 1).

Subsection (3) was substituted, as from 28 February 2002, by section 93 Electoral Amendment Act 2002 (2002 No 1).

**214E Auditor's report**

- (1) Every Secretary of a political party registered under Part 4 of this Act shall, before transmitting to the Electoral Commission the return required by section 214C(1) of this Act, obtain from the auditor appointed by the party under section 214D of this Act a report on that return.
- (2) The auditor must state in the report—
  - (a) the position shown by the return in respect of the requirement that the party's total election expenses not exceed the maximum amount prescribed by section 214B; and
  - (b) either—
    - (i) whether, in the auditor's opinion, the position stated under paragraph (a) is correct; or
    - (ii) that the auditor has been unable to form an opinion as to whether the position stated under paragraph (a) is correct.
- (3) The auditor shall make such examinations as the auditor considers necessary.
- (4) The auditor shall specify in the report any case in which—
  - (a)
  - (b) The auditor has not received from the party or the Secretary of the party all the information that the auditor requires to carry out his or her duties:
  - (c) Proper records of the party's election expenses have not, in the auditor's opinion, been kept by the party or the Secretary of the party.
- (5) The auditor—
  - (a) Shall have access at all reasonable times to all records, documents, and accounts which relate to the party's election expenses and which are held by the party or the Secretary of the party; and
  - (b) May require the party or the Secretary of the party to provide such information and explanations as, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2) was substituted, as from 28 February 2002, by section 94(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (4)(a) was repealed, as from 28 February 2002, by section 94(2) Electoral Amendment Act 2002 (2002 No 1).

### *Disclosure of donations to political parties*

The above heading was inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

## **214F Interpretation**

In sections 214G to 214J,—

**party donation**, in relation to a party registered under Part 4,—

- (a) means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things)—
  - (i) which is received by or on behalf of the party by any person or body of persons involved in the administration of the affairs of the party; and
  - (ii) which, either on its own or when aggregated with all other such donations made in the same year by the same person exceeds \$10,000 in sum or value (inclusive of goods and services tax); and
- (b) includes, where goods or services are provided to the party under a contract at 90% or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services; but
- (c) does not include the labour of any person which is provided to the party free of charge by that person; and
- (d) does not include any constituency candidate donation that is included in a return made by a constituency candidate under section 210

**year** means a period of 12 months beginning on 1 January and ending with 31 December.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

National donation: paragraph (a)(ii) was amended, as from 1 April 1996, by section 2 Electoral Amendment Act 1996 (1996 No 8) by substituting the expression “\$10,000” for the expression “\$1,000”.

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

**214G Return of party donations**

- (1) Every secretary of a political party registered under Part 4 must ensure that the Commission receives by 30 April in each year—
  - (a) a return (which must be on a form provided by the Electoral Commission) setting out—
    - (i) the name and address of each person who made a party donation in the year ending with the immediately preceding 31 December and the amount of each such donation; and
    - (ii) the amount of each anonymous donation made in the year ending with the immediately preceding 31 December (being a donation that, by virtue of paragraph (a)(ii) of the definition of party donation in section 214F, is a party donation); and
  - (b) the auditor's report on the return referred to in paragraph (a) (being the report obtained under section 214H).
- (2) Every secretary of a political party registered under Part 4 must keep proper records of donations received by the party.
- (3) Every secretary of a political party registered under Part 4 who fails, without reasonable excuse, to comply with subsection (1) or subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- (4) Every secretary of a political party registered under Part 4 who forwards to the Electoral Commission under subsection (1)(a) a return that is false in any material particular—
  - (a) is, if the secretary forwards the return knowing that the return is false in any material particular, guilty of a corrupt practice and is liable on conviction on indictment to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$20,000, or to both; and
  - (b) is, in any other case, guilty of an illegal practice and is liable on conviction on indictment to a fine not exceeding \$20,000, unless the secretary proves—
    - (i) that he or she had no intention to mis-state or conceal the facts; and

- (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- (5) Every person charged with an offence against subsection (4)(a) may be convicted of an offence against subsection (4)(b).
- (6) Despite anything in subsection (1), where a secretary of a political party is required to make under that subsection a return of party donations that relates to the year in which the political party became registered under Part 4, that return must relate to the period beginning with the date of the registration of that political party under Part 4 and ending with 31 December of that year.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

#### **214H Auditor's report**

- (1) Every secretary of a political party registered under Part 4 must, before the Electoral Commission receives the return required by section 214D, obtain from the auditor appointed under section 214G(1)(a) a report on the return.
- (2) The auditor must state in the report whether or not, in the auditor's opinion, the return fairly reflects the party donations received by the party.
- (3) The auditor must make any examinations that the auditor considers necessary.
- (4) The auditor must specify in the report any case in which—
  - (a) the return does not, in the auditor's opinion, fairly reflect the party donations received by the party;
  - (b) the auditor has not received from the secretary of the party all the information that the auditor requires to carry out his or her duties;
  - (c) proper records of party donations received by the party have not, in the auditor's opinion, been kept by the secretary of the party.
- (5) The auditor—

- (a) must have access at all reasonable times to all records, documents, and accounts which relate to the party donations received by the party and which are held by the secretary of the party; and
- (b) may require the secretary of the party to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61). *See* section 80(3) of that Act as to the commencement of provisions relating to electorate agents, and donations in sections 214H and 214I of this Act.

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

#### **214I Duties of Electoral Commission**

- (1) It is the duty of the Electoral Commission to see that the provisions of section 214G(1) are complied with.
- (2) If the Electoral Commission believes that any person has committed an offence against section 214G(3) or section 214G(4), the Electoral Commission must report the facts upon which that belief is based to the police.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61). *See* section 80(3) of that Act as to the commencement of provisions relating to electorate agents, and donations in sections 214H and 214I of this Act.

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

#### **214J Inspection of returns and audit reports**

- (1) The Electoral Commission must, 3 working days after it receives any duly completed document specified in subsection (2), make the document available for public inspection, without payment, at any time between 9 am and 4 pm, on any day on which the office of the Electoral Commission is open.
- (2) The documents referred to in subsection (1) are—
  - (a) returns of election expenses and auditors' reports received by the Electoral Commission under section 214C(1):

- (b) returns of constituency candidate election expenses received by the Electoral Commission under section 211(3)(a)(ii):
- (c) returns of party donations and auditors' reports received by the Electoral Commission under section 214G(1).

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

#### *General provisions relating to returns*

This heading was inserted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

#### **214K Obligation to file nil returns**

To avoid any doubt, the requirement to ensure that the Commission receives a return under section 214C or section 214G(1)(a) applies even though the person required to ensure that the return is received considers that there is no relevant information to disclose, in which case the person must ensure that the Electoral Commission receives a nil return.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

#### **214L Obligation to retain records necessary to verify returns**

- (1) For the purposes of this section, the person responsible for submitting a return is as follows:
  - (a) in the case of a return required by section 210 to be transmitted by a constituency candidate, the constituency candidate:
  - (b) in the case of a return of a party's election expenses required by section 214C, the secretary of the party:
  - (c) in the case of a return required by section 214G, the secretary of the party.
- (2) The person responsible for submitting a return of the kind specified in any of paragraphs (a) to (c) of subsection (1) must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable the return to

be verified are retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the return or in relation to any matter to which the return relates.

- (3) Every person commits an offence who, being a person responsible for submitting a return, fails, without reasonable excuse, to comply with the requirements of subsection (2).
- (4) Every person who commits an offence against subsection (3) is liable on summary conviction to a fine not exceeding \$20,000.

Sections 214D to 214L were inserted, as from 1 April 1996, by sections 79 and 80(1) Electoral Amendment Act (No 2) 1995 (1995 No 61).

Sections 214F to 214L were substituted, as from 28 February 2002, by section 95 Electoral Amendment Act 2002 (2002 No 1).

## **Part 7** **Corrupt and illegal practices**

### *Corrupt practices*

#### **215 Personation**

- (1) Every person is guilty of a corrupt practice who commits, or aids or abets, counsels, or procures the commission of, the offence of personation.
- (2) Every person commits the offence of personation who—
  - (a) Votes as some other person, whether that person is living or dead or is a fictitious person; or
  - (b) Having voted at any election, votes again at the same election; or
  - (c) Having voted at an election in any district at a general election, votes at an election in another district at the same general election.
- (3) For the purposes of this section, a person shall be deemed to have voted if he or she has applied for a ballot paper for himself or herself, or has applied to vote as a special voter, or has marked a ballot paper for himself or herself, whether validly or not.
- (4) Where the Returning Officer believes that any person has committed an offence against this section, the Returning Officer

shall report the facts on which that belief is based to the Police.

Compare: 1956 No 107 s 140; 1983 No 104 s 24

## **216 Bribery**

- (1) Every person is guilty of a corrupt practice who commits the offence of bribery.
- (2) Every person commits the offence of bribery who, directly or indirectly, by himself or herself or by any other person on his or her behalf—
  - (a) Gives any money or procures any office to or for any voter, or to or for any other person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting; or
  - (b) Corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting; or
  - (c) Makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person or candidates at an election or the vote of any voter,—  
or who, upon or in consequence of any such gift or procurement as aforesaid, procures, or engages, promises, or endeavours to procure, the return of any person or candidates at any election or the vote of any voter.
- (3) For the purposes of this section,—
  - (a) References to giving money shall include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure, any money or valuable consideration:
  - (b) References to procuring any office shall include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure, any office, place, or employment.
- (4) Every person commits the offence of bribery who—
  - (a) Advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part thereof shall be expended in bribery at any election; or

- (b) Knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
- (5) The foregoing provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.
- (6) A voter commits the offence of bribery if before or during an election he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives, or agrees or contracts for, any money, gift, loan, or valuable consideration, office, place, or employment for himself or herself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.
- (7) Every person commits the offence of bribery if after an election he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.
- (8) In this section the term **voter** includes any person who has or claims to have a right to vote.

Compare: 1956 No 107 s 141

## **217 Treating**

- (1) Every person is guilty of a corrupt practice who commits the offence of treating.
- (2) Every person commits the offence of treating who corruptly, by himself or herself or by any other person on his or her 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 or herself 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.
- (3) 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 persons, whether electors or not, for the purpose of procuring the return of a candidate or candidates at an election, and without receiving payment for it at the time when it is supplied.
- (4) Every elector who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating.
- (5) Notwithstanding anything in this section, the provision of a light supper after any election meeting shall be deemed not to constitute the offence of treating.

Compare: 1956 No 107 s 142; 1975 No 28 s 41

## **218 Undue influence**

- (1) Every person is guilty of a corrupt practice who commits the offence of undue influence.
- (2) Every person commits the offence of undue influence who—
  - (a) Directly or indirectly, by himself or herself or by any other person on his or her behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or herself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel that person to vote for or against a particular candidate or party or to vote or refrain from voting, or on account of that person having voted for or against a particular candidate or having voted or refrained from voting; or
  - (b) By abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the

franchise of an elector, or thereby compels, induces, or prevails upon an elector either to vote or to refrain from voting.

Compare: 1956 No 107 s 143

### *Illegal practices*

#### **219 Payments for exhibition of election notices**

- (1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate or candidates at an election be made to an elector on account of the exhibition of, or the use of any house, land, building, or premises for the exhibition of, any address, poster, or notice, unless it is the ordinary business of the elector to exhibit for payment posters and advertisements and the payment or contract is made in the ordinary course of that business.
- (2) If any payment or contract for payment is knowingly made in contravention of this section before, during, or after an election, the person making the payment or contract and, if he or she knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract is guilty of an illegal practice.

Compare: 1956 No 107 s 144

#### **220 Providing money for illegal purposes**

Where any person knowingly provides money for any purpose which is contrary to the provisions of this Act, or for any election expenses incurred in excess of the maximum amount allowed by this Act, or for repaying any money expended in any such payment or expenses, that person is guilty of an illegal practice.

Compare: 1956 No 107 s 147

#### **221 Advertisements for candidates and political parties**

- (1) Subject to subsections (2) and (3) of this section, no person shall publish or cause or permit to be published in any newspaper, periodical, poster, or handbill, or broadcast or cause or permit to be broadcast over any radio or television station, any advertisement which—

- (a) Is used or appears to be used to promote or procure the election of a constituency candidate; or
  - (b) Encourages or persuades or appears to encourage or persuade voters to vote for a party registered under Part 4 of this Act.
- (2) A person may publish or cause or permit to be published an advertisement of the kind described in subsection (1)(a) of this section if—
  - (a) The publication of that advertisement is authorised in writing by the candidate or the candidate's agent or, in the case of an advertisement relating to more than one candidate, the candidates or the party to which they belong; and
  - (b) The advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his or her place of residence or business.
- (3) A person may publish or cause or permit to be published an advertisement of the kind described in subsection (1)(b) of this section if—
  - (a) The publication of that advertisement is authorised in writing by the Secretary of the party or his or her delegate; and
  - (b) The advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his or her place of residence or business.
- (4) Subject to subsections (2) and (3) of this section, every person is guilty of an illegal practice who wilfully contravenes any provision of subsection (1) of this section.
- (5) A candidate or the Secretary of a party or his or her delegate shall not be liable for an illegal practice under this section committed by an agent without the consent or connivance of the candidate or of the Secretary of a party or his or her delegate, as the case may be.
- (6) Nothing in this section shall restrict the publication of any news or comments relating to an election in a newspaper or other periodical or in a radio or television broadcast made

by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.

Compare: 1956 No 107 s 147A(1), (3)-(5); 1977 No 128 s 10; 1990 No 1 s 75(b)

Section 221 was substituted, as from 6 December 1995, by section 81 Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **221A Electoral advertisements**

- (1) Subject to subsection (2) of this section, no person shall publish or cause or permit to be published in any newspaper, periodical, poster, or handbill, or broadcast or cause or permit to be broadcast over any radio or television station, any advertisement relating to an election unless the advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of that person's place of residence or business.
- (2) Subsection (1) of this section shall not apply to any advertisement published or broadcast, or caused or permitted to be published or broadcast, by the Chief Electoral Officer, the Chief Registrar of Electors, the Electoral Commission, or any other agency charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand and relating to electoral matters or the conduct of any general election or by-election and which either contains a statement indicating that the advertisement has been authorised by that officer or agency, or contains a symbol indicating that the advertisement has been authorised by that officer or agency.
- (3) Every person is guilty of an illegal practice who wilfully contravenes any provision of subsection (1) of this section.
- (4) Nothing in this section shall restrict the publication of any news or comments relating to an election in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.

Section 221A was inserted, as from 6 December 1995, by section 82 Electoral Amendment Act (No 2) 1995 (1996 No 61).

**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.

Section 221B was inserted, as from 7 December 2004, by section 8 Electoral Amendment Act 2004 (2004 No 99).

**222 Procurement of voting by unqualified voters**

Every person is guilty of an illegal practice who induces or procures to vote at any election any person whom he or she

knows at the time to be disqualified or prohibited, whether under this Act or otherwise, from voting at that election.

Compare: 1956 No 107 s 148

### *General provisions*

#### **223 Cinematograph films**

- (1) For the purposes of this Act, the exhibition of any cinematograph film shall not be deemed to constitute bribery or treating or an illegal practice, and any payment or contract for payment in respect of any such exhibition shall not be deemed to constitute an illegal practice notwithstanding that the film may be wholly or mainly an advertisement.
- (2) For the purposes of this section, the expression **cinematograph film** or **film** includes any screen advertisement of any description.

Compare: 1956 No 107 s 149

#### **224 Punishment for corrupt or illegal practice**

- (1) Every person who is guilty of any corrupt practice or any illegal practice shall be liable on conviction on indictment,—
  - (a) In the case of a corrupt practice, to imprisonment for a term not exceeding one year or to a fine not exceeding \$4,000, or to both;
  - (b) In the case of an illegal practice, to a fine not exceeding \$3,000.
- (2) Nothing in this section applies in relation to a corrupt practice under any provision of sections 201, 214C, and 214G of this Act, or under section 43 of the Citizens Initiated Referenda Act 1993, or under section 54 of the Compulsory Retirement Savings Scheme Referendum Act 1997.

Compare: 1956 No 107 s 150; 1990 No 1 s 76(1)

Subsection (2) was substituted, as from 6 December 1995, by section 83 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subsection (2) was amended, as from 29 May 1997, by section 64 Compulsory Retirement Savings Scheme Referendum Act 1997 (1997 No 13) by inserting the words “, or under section 54 of the Compulsory Retirement Savings Scheme Referendum Act 1997”.

Subsection (2) was amended, as from 28 February 2002, by section 96 Electoral Amendment Act 2002 (2002 No 1) by substituting the expression “214G” for the expression “214I”.

**225 Persons charged with corrupt practice may be found guilty of illegal practice**

Any person charged with a corrupt practice may, if the circumstances warrant that finding, be found guilty of an illegal practice; and any person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

Compare: 1956 No 107 s 151

**226 Time limit for prosecutions**

A prosecution against any person for a corrupt practice or an illegal practice shall be commenced within 6 months after the offence was committed:

Provided that where the person charged has been reported by the High Court in its report on the trial of an election petition to have been proved guilty of the offence, a prosecution shall be commenced within 6 months after the offence was committed or within 3 months after the date of the report, whichever period is the later to expire.

Compare: 1956 No 107 s 152

**227 Punishment for disqualified person voting**

If any person, while his or her name is on the Corrupt Practices List for any district, votes or applies for a ballot paper or applies to vote as a special voter at any election in that or any other district, he or she shall, notwithstanding that his or her name may be on the main roll or any supplementary roll, be liable on summary conviction to a fine not exceeding \$4,000, and his or her vote shall be void.

Compare: 1956 No 107 s 153; 1990 No 1 s 77

**228 Reversal of disqualification procured through perjury**

Where the name of any person is entered on the Corrupt Practices List for any district by reason of any conviction or any report by the High Court, and any witness who gave evidence against that person in the proceedings resulting in that conviction or report is convicted of perjury in respect of that evidence, that person may apply to the High Court, and that Court, if satisfied that the conviction or report so far as it relates to that

person was based on perjury, may order that the name of that person be removed from the Corrupt Practices List.

Compare: 1956 No 107 s 154

## **Part 8**

### **Election petitions**

#### **229 Method of questioning election**

- (1) No election and no return to the House of Representatives shall be questioned except by a petition complaining of an unlawful election or unlawful return (in this Act referred to as an election petition) presented in accordance with this Part of this Act.
- (2) A petition complaining of no return shall be deemed to be an election petition, and the High Court or the Court of Appeal may make such order thereon as the Court thinks expedient for compelling a return to be made or may allow the petition to be heard as provided with respect to ordinary election petitions.
- (3) An election petition relating to the return of a member of Parliament representing an electoral district or the failure to present a return at an election for a member of Parliament representing an electoral district shall be presented to the High Court and determined in accordance with sections 230 to 257 of this Act.
- (4) An election petition relating to the allocation of seats by the Chief Electoral Officer under sections 191 to 193 of this Act may be presented to the Court of Appeal in accordance with sections 258 to 262 of this Act.

Compare: 1956 No 107 s 155; 1986 No 116 s 6

#### **230 Election petitions to High Court**

- (1) An election petition to which section 229(3) of this Act applies may be presented to the High Court by one or more of the following persons:
  - (a) A person who voted or had a right to vote at the election:
  - (b) A person claiming to have had a right to be elected or returned at the election:
  - (c) A person alleging himself or herself to have been a constituency candidate at the election.

- (2) The member whose election or return is complained of shall be the respondent to the petition, and, if the petition complains of the conduct of the Returning Officer or Registrar of Electors, he or she shall also be a respondent.
- (3) The petition shall be in such form and state such matters as are prescribed by rules of Court, and be signed by the petitioner or all the petitioners if more than one.
- (4) The petition shall be presented by filing it in the registry of the High Court nearest to the place where the election was held. The Registrar of the Court shall forthwith send a copy of the petition to the Returning Officer.
- (5) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of Court.

Compare: 1956 No 107 s 156; 1980 No 29 s 5(8)

### **231 Time for presentation of election petition**

- (1) Subject to the provisions of this section, an election petition shall be presented within 28 days after the day on which the Chief Electoral Officer has publicly notified the result of the poll.
- (2) If the petition questions the election or return upon an allegation of a corrupt practice and specifically alleges a payment of money or other reward to have been made by the member or on his or her account or with his or her knowledge and consent since the day of the said declaration in pursuance or furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.
- (3) For the purposes of this section, an allegation that an election is avoided under section 238 of this Act shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

Compare: 1956 No 107 s 157; 1975 No 28 s 45

Subsection (1) was amended, as from 6 November 1995, by section 84 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the expression “28 days” for the expression “49 days”.

Subsection (1) was further amended, as from 28 February 2002, by section 101(1) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “Chief Electoral Officer” for the words “Returning Officer”.

Subsection (2) was amended, as from 6 November 1995, by section 84 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the expression “28 days” for the expression “49 days”.

### **232 Security for costs**

- (1) At the time of presenting an election petition or within 3 days after the expiration of the time limited for the presentation of the petition, the petitioner shall give security to the satisfaction of the Registrar of the Court for all costs that may become payable by the petitioner to any witness summoned on the petitioner’s behalf or to any respondent.
- (2) The security shall be an amount of \$1,000, and shall be given by recognisance to the Crown entered into by any number of sureties not exceeding 5 or by a deposit of money, or partly in one way and partly in the other.
- (3) If no security is given as required by this section, no further proceedings shall be taken on the petition.

Compare: 1956 No 107 s 158

### **233 More than one petition relating to same election**

Where more petitions than one are presented relating to the same election or return, all those petitions shall be dealt with as one petition.

Compare: 1956 No 107 s 159

### **234 Rules of Court**

- (1) Rules of Court may be made in the manner prescribed by the Judicature Act 1908 for the purposes of this Part of this Act.
- (2) All rules made under this section shall be laid before the House of Representatives not later than the 16th sitting day of the House of Representatives after the day on which they are made.

Compare: 1956 No 107 s 160; 1986 No 116 s 7

*Trial of election petition***235 Court and place of trial**

- (1) Every election petition to which section 229(3) of this Act applies shall be tried by the High Court, and the trial shall take place before 3 Judges of the Court to be named by the Chief Justice.
- (2) If any such Judge, before the conclusion of the trial, becomes unable to act, the Chief Justice shall name another Judge to act in his or her place.
- (3) The place of trial shall be at the registry of the Court where the petition is filed:

Provided that the High Court, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, may appoint such other place for the trial as appears most convenient.

Compare: 1956 No 107 s 161

**236 Trial of petition**

- (1) An election petition to which section 229(3) of this Act applies shall be tried in open Court without a jury, and notice of the time and place of trial shall be given not less than 14 days before the day of trial.
- (2) The Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.
- (3) The trial of an election petition shall be proceeded with notwithstanding that the respondent may have become disqualified as a member of Parliament, or that Parliament may have been prorogued.
- (4) Subject to this Act, the Court shall have jurisdiction to inquire into and adjudicate on any matter relating to the petition in such manner as the Court thinks fit, and, in particular, may at any time during the trial direct a recount or scrutiny of some or all of the votes given at the election, and shall disallow the vote of every person proved to have been guilty of any corrupt practice, or whose name has been wrongly placed or retained on the roll.

- (5) Notwithstanding subsection (4) of this section, the vote of any person who on polling day was entitled to be registered as an elector of the district shall not be disallowed on the ground that his or her name has been wrongly placed or retained on the roll.
- (6) Notwithstanding subsection (4) of this section, where an elector—
- (a) Has been registered as an elector of the district by an error on the part of an official; and
  - (b) Has exercised his or her vote in respect of that district in good faith without notice of the error,—
- his or her vote shall not be disallowed by reason only of that error.
- (7) On the trial of an election petition, unless the Court otherwise directs, any charge of a corrupt or illegal practice may be gone into, and evidence in relation thereto received before any proof has been given that any candidate was aware of or consenting to the corrupt or illegal practice.
- (8) On the trial of an election petition to which section 229(3) of this Act applies complaining of an unlawful election or return and claiming the seat for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if the respondent had presented a petition against the election of that person.

Compare: 1956 No 107 s 162

**237 Avoidance of election of candidate guilty of corrupt practice**

Where a candidate who has been elected at any election is proved at the trial of an election petition to which section 229(3) of this Act applies to have been guilty of any corrupt practice at the election, his or her election shall be void.

Compare: 1956 No 107 s 163

**238 Avoidance of election for general corruption**

- (1) Where it is reported by the High Court on the trial of an election petition that corrupt or illegal practices committed in relation to the election for the purpose of promoting or procuring the election of any constituency candidate or constituency

candidates thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, the constituency candidate's election, if the candidate has been elected and is a respondent, shall be void.

- (2) Except under this section, an election shall not be liable to be avoided by reason of the general prevalence of corrupt or illegal practices.

Compare: 1956 No 107 s 164

**239 Votes to be struck off for corrupt practices**

Where, on the trial of an election petition to which section 229(3) of this Act applies claiming the seat for any person, a constituency candidate is reported by the High Court to have been proved guilty of bribery, treating, or undue influence in respect of any person who voted at the election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been received by the candidate one vote for every person who voted at the election and is reported to have been proved to have been so bribed, treated, or unduly influenced.

Compare: 1956 No 107 s 165

**240 Real Justice to be observed**

On the trial of any election petition,—

- (a) The Court shall be guided by the substantial merits and justice of the case without regard to legal forms or technicalities:
- (b) The Court may admit such evidence as in its opinion may assist it to deal effectively with the case, notwithstanding that the evidence may not otherwise be admissible in the High Court.

Compare: 1956 No 107 s 166

**241 Irregularities not to invalidate election**

No election shall be declared invalid by reason of—

- (a) Any failure to comply with the times prescribed for doing any act; or
- (b) Any omission or irregularity in filling out any form prescribed by this Act or by regulations made thereunder; or

- (c) Any want or defect in the appointment of any official or scrutineer; or
- (d) Any absence of, or mistake or omission or breach of duty by, any official, whether before, during, or after the polling—

if the Court is satisfied that the election was so conducted as to be substantially in compliance with the law as to elections, and that the failure, omission, irregularity, want, defect, absence, mistake, or breach did not affect the result of the election.

Compare: 1956 No 107 s 167

**242 Decision of Court to be final**

All decisions of the High Court under this Part of this Act shall be final and conclusive and without appeal, and shall not be questioned in any way.

Compare: 1956 No 107 s 168

**243 Certificate of Court as to result of election**

At the conclusion of the trial of an election petition to which section 229(3) of this Act applies, the Court shall determine whether the member whose election or return is complained of, or any and what other person, was duly elected or returned, or whether the election was void, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes.

Compare: 1956 No 107 s 169

**244 Report of Court as to corrupt or illegal practices**

- (1) Where, in an election petition to which section 229(3) of this Act applies, any charge is made of any corrupt or illegal practice having been committed at the election, the Court shall, in addition to giving a certificate and at the same time, report in writing to the Speaker as follows:

- (a) Whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any constituency candidate at the election, and the nature of the corrupt or illegal practice:

- (b) Whether any of the constituency candidates has been guilty by his or her agents of any corrupt or illegal practice in reference to the election:
  - (c) The names of all persons proved at the trial to have been guilty of any corrupt or illegal practice and whether they have received certificates of indemnity:
  - (d) Whether there is reason to believe that corrupt or illegal practices have extensively prevailed at the election.
- (2) In the case of someone who is not a party to the petition nor a constituency candidate on behalf of whom the seat is claimed by the petition, the Court, before reporting him or her to have been proved guilty of any corrupt or illegal practice, shall first cause notice to be given to him or her, and if he or she appears in pursuance of the notice, shall give him or her an opportunity of being heard and of calling evidence in his or her defence to show why he or she should not be so reported.
- (3) For the purposes of this Act, if it is reported by the Court that a corrupt or illegal practice was committed with the knowledge and consent of a constituency candidate, he or she shall be treated as having been reported to have been proved guilty of that corrupt or illegal practice.
- (4) If a constituency candidate is reported to have been guilty by his or her agents of treating, undue influence, or any illegal practice, and the Court further reports—
- (a) That no corrupt or illegal practice was committed at the election by the constituency candidate with his or her knowledge or consent, and that the offences mentioned in the report were committed without the sanction or connivance of the constituency candidate; and
  - (b) That all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the constituency candidate; and
  - (c) That the offences mentioned in the report were of a trivial, unimportant, and limited character; and
  - (d) That in all other respects the election was free from any corrupt or illegal practice on the part of the constituency candidate and of his or her agents,—

the constituency candidate shall not be treated for the purposes of this Act as having been reported to have been proved guilty of the offences mentioned in the report.

Compare: 1956 No 107 s 170

**245 Special report**

At the same time as the Court gives its certificate at the conclusion of the trial of an election petition to which section 229(3) of this Act applies, the Court may make a special report to the Speaker as to any matters arising in the course of the trial an account of which, in the judgment of the Court, ought to be submitted to the House of Representatives.

Compare: 1956 No 107 s 171

**246 Signature and effect of certificate and report**

- (1) The certificate and any report of the Court at the conclusion of the trial of an election petition shall be signed by at least 2 of the Judges presiding at the trial.
- (2) On being informed by the Speaker of the certificate and any report of the Court, the House of Representatives shall order the same to be entered in the Journals of the House, and shall give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying out the determination, as the circumstances may require.
- (3) Where the Court makes a special report, the House may make such order in respect of that report as the House thinks proper.

Compare: 1956 No 107 s 172

*Witnesses*

**247 Summons and examination of witnesses**

- (1) Witnesses may be summoned and sworn on the trial of an election petition to which section 229(3) of this Act applies in the same manner, as nearly as circumstances admit, as in the trial of an ordinary action.
- (2) The High Court may by order require any person who appears to the Court to have been concerned in the election to attend as a witness, and every person who refuses to obey any such order shall be guilty of contempt of Court.

- (3) The Court may examine any person so required to attend or any person in Court, although he or she is not called or examined by any party to the petition.
- (4) After the examination of a witness as aforesaid by the Court, he or she may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

Compare: 1956 No 107 s 173

#### **248 Certificate of indemnity to witness**

- (1) A person called as a witness on the trial of an election petition to which section 229(3) of this Act applies shall not be excused from answering any question relating to any offence at or connected with the election on the ground that the answer thereto may incriminate or tend to incriminate himself or herself, or on the ground of privilege:

Provided that—

- (a) An answer by a person to a question put by or before the Court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against that person in any proceeding, civil or criminal:
  - (b) A witness who answers truly all questions which he or she is required by the Court to answer shall be entitled to receive a certificate of indemnity, stating that he or she has so answered.
- (2) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against that person for any offence committed by that person at or in connection with the election previously to the date of the certificate, the Court having cognisance of the case shall on production of the certificate stay the proceeding, and may in its discretion award to the said person such costs as he or she has been put to in the proceeding.
- (3) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceedings to enforce any such incapacity (other than a criminal prosecution).

Compare: 1956 No 107 s 174

**249 Expenses of witnesses**

- (1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition to which section 229(3) of this Act applies, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him or her by the Court.
- (2) Any such expenses, if the witness was called and examined by the Court, shall be deemed to be part of the expenses of the Court, and in other cases shall be deemed to be costs of the petition.

Compare: 1956 No 107 s 175

*Costs*

**250 Costs of petition**

- (1) All costs of and incidental to the presentation of an election petition to which section 229(3) of this Act applies, and to the proceedings consequent thereon, except such as are by this Act otherwise provided for shall be defrayed by the parties to the petition in such manner and in such proportions as the High Court may determine; and, in particular, any costs which, in the opinion of the Court, have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or of the respondent, and any needless expenses incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom they were caused or incurred, whether those parties are or are not on the whole successful.
- (2) If a petitioner fails for 6 months after demand to pay to any person summoned as a witness on the petitioner's behalf, or to the respondent, any sum certified to be due to that person for costs, and the failure is within one year after the demand proved to the satisfaction of the High Court, every person who has under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and it shall be dealt with in the manner provided by section 21 of the Crown Proceedings Act 1950.

Compare: 1956 No 107 s 176

**251 Costs payable by persons proved guilty of corrupt or illegal practices**

- (1) Where on the trial of an election petition to which section 229(3) of this Act applies it appears to the Court that any person has been guilty of any corrupt or illegal practice, the Court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceedings before the Court in relation to that offence or to that person to be paid by that person to such other person or persons as the Court thinks fit.
- (2) All costs so ordered to be paid may be recovered as a debt due by the person by whom they are ordered to be paid to the person or persons to whom they are ordered to be paid.

Compare: 1956 No 107 s 177

*Withdrawal and abatement of petitions***252 Withdrawal of petition**

- (1) A petitioner shall not withdraw an election petition to which section 229(3) of this Act applies without the leave of the High Court upon special application to be made in the prescribed manner.
- (2) No such application shall be made until the prescribed notice of the intention to make it has been given in the district to which the petition relates.
- (3) Where there are more petitioners than one, an application to withdraw the petition shall not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

Compare: 1956 No 107 s 178

**253 Substitution of new petitioner**

- (1) On the hearing of an application for leave to withdraw a petition, any person who might in the first instance have presented the petition may apply to the Court to be substituted as a petitioner.

- (2) The Court may, if it thinks fit, substitute any such applicant as petitioner, and may, if the proposed withdrawal is in the opinion of the Court the result of any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs incurred by the substituted petitioner, and that to the extent of the sum named in the security the original petitioner shall be liable to pay the costs of the substituted petitioner.
- (3) If the Court does not so direct, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner within 3 days after the order of substitution.
- (4) Subject as aforesaid, a substituted petitioner shall as nearly as may be stand in the same position and be subject to the same liabilities as the original petitioner.

Compare: 1956 No 107 s 179

#### **254 Report on withdrawal**

In every case of the withdrawal of an election petition to which section 229(3) of this Act applies, the High Court shall make a report to the Speaker stating whether in its opinion the withdrawal of the petition was the result of any corrupt arrangement or in consideration of the withdrawal of any other election petition and, if so, the circumstances attending the withdrawal.

Compare: 1956 No 107 s 180

#### **255 Abatement of petition**

- (1) An election petition to which section 229(3) applies shall be abated by the death of a sole petitioner or of the survivor of several petitioners.
- (2) The abatement of a petition shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.
- (3) On the abatement of a petition, notice of the abatement shall be given in the prescribed manner; and, within 28 days after the notice is given, any person who might have been a petitioner in respect of the election may apply to the High Court in the

prescribed manner to be substituted as a petitioner. On any such application the High Court may, if it thinks fit, substitute the applicant accordingly.

- (4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

Compare: 1956 No 107 s 181

### *General provisions*

#### **256 Withdrawal and substitution of respondents before trial**

- (1) If, before the trial of an election petition to which section 229(3) of this Act applies, a respondent other than the Returning Officer or a Registrar of Electors—

- (a) Dies; or
- (b) Gives the prescribed notice that he or she does not intend to oppose the petition; or
- (c) Loses his or her seat by reason of the House of Representatives resolving that the seat is vacant,—

notice thereof shall be given in the prescribed manner; and, within 28 days after the notice is given, any person who might have been a petitioner in respect of the election may apply to the High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed 3.

- (2) A respondent who has given the prescribed notice that he or she does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and shall not sit or vote in the House of Representatives until that House has been informed of the report on the petition.

- (3) Where a respondent has given the prescribed notice as aforesaid, the Court shall report that fact to the Speaker.

Compare: 1956 No 107 s 182

#### **257 Submission of report to Attorney-General**

Where the High Court reports that certain persons named have been proved at the trial of an election petition to have been

guilty of any corrupt or illegal practice, the report shall be given to the Attorney-General.

Compare: 1956 No 107 s 183

**258 Electoral petitions to Court of Appeal**

- (1) An electoral petition relating to the allocation of seats under sections 191 to 193 of this Act may be presented to the Court of Appeal by a Secretary of a political party whose party was listed in the part of the ballot paper that relates to the party vote.
- (2) The petition may seek a review of the procedures and methods used to allocate seats to political parties under sections 191 to 193 of this Act, and the return of members of Parliament consequential upon that allocation.
- (3) The respondents shall be the other political parties named in the part of the ballot paper that relates to the party vote, and, if the conduct of the Chief Electoral Officer is complained of, the Chief Electoral Officer.
- (4) Subject to subsections (1) to (3) of this section, the petition shall be in such form and state such matters as are prescribed by rules of Court, and be signed by the petitioner or all the petitioners if more than one.
- (5) The petition shall be presented by filing it in the Registry of the Court of Appeal. The Registrar of the Court shall forthwith send a copy of the petition to the Chief Electoral Officer.
- (6) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of Court.

Subsection (1) was amended, as from 1 July 1996, by section 7 Electoral Amendment Act (No 2) 1996 (1996 No 54) by substituting the words “the part of the ballot paper that relates to the party vote” for the words “Part B of the ballot paper”.

Subsection (3) was amended, as from 1 July 1996, by section 7 Electoral Amendment Act (No 2) 1996 (1996 No 54) by substituting the words “the part of the ballot paper that relates to the party vote” for the words “Part B of the ballot paper”.

**259 Time for presentation of an election petition to Court of Appeal**

An election petition under section 258 of this Act shall be presented within 28 days of the date of the declaration made under section 193(5) of this Act by the Chief Electoral Officer.

Section 259 was amended, as from 6 November 1995, by section 85 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the expression “28 days” for the expression “49 days”.

**260 Matters excluded from challenge**

On the hearing of a petition presented pursuant to section 258 of this Act, no decision shall be subject to challenge on the grounds—

- (a) That the vote of any elector should have been disallowed because he or she was not qualified to vote in the electoral district in respect of which he or she cast his or her vote; or
- (b) That the vote of any voter that was disallowed should have been allowed; or
- (c) That a candidate or candidates, or the agent of any candidate, was engaged in a corrupt or illegal practice; or
- (d) That corrupt or illegal practices prevailed at the election.

**261 Provisions applied**

Where any petition is presented under section 258 of this Act, the provisions of sections 232 to 235, subsections (1) to (3) and (8) of section 236, sections 240 to 242, sections 245 to 250, and section 252 (other than subsection (2)), of this Act shall apply, with any necessary modifications, as if references to the High Court were references to the Court of Appeal.

Section 261 was amended, as from 1 July 1996, by section 8(a) Electoral Amendment Act (No 2) 1996 (1996 No 54) by inserting the word “and”. It was further amended by section 8(b) of that Act by omitting the words “and section 256”.

**262 Certificate of Court as to result of petitions**

At the conclusion of the trial of an election petition to which section 258 of this Act applies, the Court of Appeal shall—

- (a) Determine whether the procedures used to allocate seats to political parties under sections 191 to 193 of this Act were correct:
- (b) Determine whether the return of members of Parliament consequential upon the allocation under sections 191 to 193 of this Act is valid:
- (c) Make such orders as are necessary to correct any error or invalidity, including—
  - (i) An order that any declaration of election made pursuant to section 193(5) of this Act, so far as it relates to any candidate named in the order, is invalid and the election of that candidate void:
  - (ii) An order that any candidate not named in a declaration of election made pursuant to section 193(5) of this Act is elected as a member of Parliament:
  - (iii) An order requiring the Chief Electoral Officer to repeat any or all of the procedures prescribed by sections 191 to 193 of this Act:
- (d) Forthwith certify in writing its determination to the Speaker and the determination so certified shall be final to all intents and purposes.

## **Part 9**

### **Miscellaneous provisions**

#### **263 Service of notices**

- (1) Any notice under this Act may be served on any person by delivering it to that person, and may be delivered to that person either personally or by leaving it at his or her place of residence as stated on the roll or by posting it by registered letter addressed to him or her at that place of residence.
- (2) A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.
- (3) Where any notice is sent by registered letter addressed to any person at his or her place of residence as stated on the roll, with a special request that the letter be returned to the sender at the expiration of 15 days if the person to whom the letter

is addressed cannot be found, the return of the letter by New Zealand Post Limited shall be deemed sufficient proof that the person has quitted that place of residence.

Compare: 1956 No 107 s 184

**263A Disclosure of immigration information for matching purposes**

- (1) In this section, **immigration information**, in relation to any person, means—
- (a) Information concerning—
    - (i) Any person whom the Secretary of Labour believes is in New Zealand unlawfully; or
    - (ii) Any person who is in New Zealand lawfully but only by virtue of being the holder of a temporary permit of whatever type; and
  - (b) Information that, in relation to any person described in paragraph (a)(i) or paragraph (a)(ii) of this definition, is as follows:
    - (i) The person's full name:
    - (ii) Any aliases known to be used by that person:
    - (iii) The person's date of birth:
    - (iv) The person's address (if known):
    - (v) The expiry date of any permit granted to the person.
- (2) The purpose of this section is to facilitate the disclosure of information from the Department of Labour to the Chief Registrar for the purposes of—
- (a) Verifying, for the purposes of this Act, that any person registered as an elector of an electoral district is qualified to be registered as an elector of that electoral district:
  - (b) Verifying that a person registered as an elector is a person whom the Secretary of Labour believes to be either—
    - (i) A person who is in New Zealand unlawfully; or
    - (ii) A person who is in New Zealand lawfully but only by virtue of being the holder of a temporary permit of whatever type.

- (3) For the purposes of this section, any officer or employee or agent of the Department of Labour authorised in that behalf by the Secretary of Labour may from time to time, at the request of the Chief Registrar, supply to the Chief Registrar any immigration information held by that department.
- (4) Where, in relation to any person, immigration information is supplied to the Chief Registrar pursuant to subsection (3) of this section, the Chief Registrar may cause a comparison of that information to be made with any information which is held by the Chief Registrar and which relates to that person.
- (5) Where the result of a comparison carried out pursuant to subsection (4) of this section indicates that any person on the electoral roll is—
- (a) A person whom the Secretary of Labour believes is in New Zealand unlawfully; or
  - (b) A person who is in New Zealand lawfully but only by virtue of being the holder of a temporary permit of whatever type,—
- the Chief Registrar shall advise the Registrar of the electoral district in which that person is registered as an elector accordingly.
- (6) Where any Registrar receives advice from the Chief Registrar under subsection (5) of this section that, in relation to any person, either of the circumstances referred to in subsection (5) applies, the Registrar shall, under section 96 of this Act, object to the name of that person being on the roll for the district.

Section 263A was inserted, as from 6 December 1995, by section 86 Electoral Amendment Act (No 2) 1995 (1995 No 61).

### **263B Disclosure of personal information for enrolment purposes**

- (1) The purpose of this section is to facilitate the disclosure of information described in subsection (2) by a specified agency to the Chief Registrar only for the purposes of—
- (a) identifying persons who are qualified to apply to register as an elector but who have not yet registered; and
  - (b) encouraging those persons identified to register as an elector; and

- (c) updating and ensuring the accuracy of the particulars of persons whose names are on the roll.
- (2) The information referred to in subsection (1) is the following information relating to any person of or over the age of 17 years:
- (a) the person's full name:
  - (b) the person's date of birth:
  - (c) the person's address of residence (if known):
  - (d) the person's postal address (if known and if different from the address of residence in paragraph (c)):
  - (e) the person's preferred honorific (if known):
  - (f) the date at which the information in paragraphs (a) to (e) held by the agency was last provided to the agency.
- (3) For the purposes of this section, a **specified agency** means—
- (a) the department for the time being responsible for the administration of the Social Security Act 1964; and
  - (b) the Ministry of Transport; and
  - (c) Land Transport New Zealand; and
  - (d) the Department of Internal Affairs.
- (4) For the purposes of this section, any officer or employee or agent of a specified agency, authorised by the chief executive of that agency, may from time to time, at the request of the Chief Registrar, supply to the Chief Registrar any of the information described in subsection (2) held by that agency,—
- (a) in the case of the department for the time being responsible for the administration of the Social Security Act 1964, in relation to any—
    - (i) beneficiary; or
    - (ii) student; or
    - (iii) borrower (as that term is defined in section 2 of the Student Loan Scheme Act 1992):
  - (b) in the case of the Ministry of Transport, in relation to motor vehicle registration:
  - (c) in the case of Land Transport New Zealand, in relation to driver licences:
  - (d) in the case of the Department of Internal Affairs, in relation to persons who obtain New Zealand citizenship under the Citizenship Act 1977.

- (5) If, in relation to any person, information is supplied to the Chief Registrar under subsection (4), the Chief Registrar may cause a comparison of that information to be made with any information that is held by the Chief Registrar and that relates to that person.

Section 263B was inserted, as from 28 February 2002, by section 97 Electoral Amendment Act 2002 (2002 No 1).

Subsections (3)(c) and (4)(c) were amended, as from 1 December 2004, by section 19(1) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “Land Transport New Zealand” for the words “the Land Transport Safety Authority”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

#### **264 Review by select committee**

- (1) The House of Representatives shall, as soon as practicable after the 1st day of April 2000, appoint a select committee to consider the following matters:
- (a) The effect of sections 35 and 36 of this Act on the operation of the electoral system:
  - (b) The provisions of this Act dealing with Maori representation:
  - (c) Whether there should be a further referendum on changes to the electoral system.
- (2) The select committee appointed under subsection (1) of this section shall report to the House of Representatives before the 1st day of June 2002 and shall include in its report a statement indicating—
- (a) Whether, in its view, there should be changes to sections 35 and 36 of this Act; and
  - (b) Whether, in its view, there should be changes to the provisions of this Act dealing with Maori representation; and
  - (c) Whether in its view there should be a further referendum on changes to the electoral system, and, if so, the nature of the proposals to be put to voters and the timing of such a referendum.

**265 Registrars of Electors exempt from Court fees**

Registrars of Electors shall be exempt from the payment of any Court fees in respect of any proceedings under this Act.

Compare: 1956 No 107 s 186; 1980 No 29 s 5(6)

**266 Validation of irregularities**

Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done before or after that time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under this Act, the Governor-General may, by Order in Council gazetted, at any time before or after the time within which the thing is required to be done, extend that time, or validate anything so done before or after the time required or so irregularly done in matter of form, or make other provision for the case as he or she thinks fit:

Provided that this section shall not apply with respect to the presentation of an election petition or to the giving of security for costs in relation to an election petition.

Compare: 1956 No 107 s 187

**267 Regulations**

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing forms for the purposes of this Act:
- (b) prescribing fees, or a scale of fees, for the supply of computer-compiled lists and electronic storage media by the Chief Registrar to any person under section 114, and for the giving of remote access by electronic means under that section:
- (c) prescribing criteria, in addition to those specified in section 111E(3)(a) to (d), of which the Minister of Justice and the Minister of Maori Affairs must be satisfied in relation to a particular person or body of persons before designating it under section 111E:
- (ca) defining **iwi organisation** and **other Maori organisation** for the purposes of sections 111A to 111F:

- (d) Prescribing the time at which, and the manner in which, special voters may vote (whether at a polling place or not and whether in or outside New Zealand):
- (e) Prescribing conditions upon or subject to which special voters may vote:
- (f) Prescribing different methods of voting for different classes of special voters:
- (g) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act:
- (h) Prescribing penalties for offences against regulations made under this Act, not exceeding imprisonment for a term of 3 months or a fine of \$1,000 or both:
- (i) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Compare: 1956 No 107 s 188; 1990 No 1 s 78(1)

Paragraphs (b) and (c) were substituted and paragraph (ca) was inserted, as from 28 February 2002, by section 98 Electoral Amendment Act 2002 (2002 No 1).

**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.

Sections 267A and 267B were inserted, as from 7 December 2004, by section 9 Electoral Amendment Act 2004 (2004 No 99).

**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 recom-

mentation comprise at least 75% of all members of Parliament.

Sections 267A and 267B were inserted, as from 7 December 2004, by section 9 Electoral Amendment Act 2004 (2004 No 99).

**268 Restriction on amendment or repeal of certain provisions**

- (1) This section applies to the following provisions (hereinafter referred to as reserved provisions), namely,—
- (a) Section 17(1) of the Constitution Act 1986, relating to the term of Parliament:
  - (b) Section 28 of this Act, relating to the Representation Commission:
  - (c) Section 35 of this Act, and the definition of the term **General electoral population** in section 3(1) of this Act, relating to the division of New Zealand into electoral districts after each census:
  - (d) Section 36 of this Act, relating to the allowance for the adjustment of the quota:
  - (e) Section 74 of this Act, and the definition of the term **adult** in section 3(1) of this Act, and section 60(f) of this Act, so far as those provisions prescribe 18 years as the minimum age for persons qualified to be registered as electors or to vote:
  - (f) Section 168 of this Act, relating to the method of voting.
- (2) No reserved provision shall be repealed or amended unless the proposal for the amendment or repeal—
- (a) Is passed by a majority of 75 percent of all the members of the House of Representatives; or
  - (b) Has been carried by a majority of the valid votes cast at a poll of the electors of the General and Maori electoral districts:

Provided that this section shall not apply to the repeal of any reserved provision by a consolidating Act in which that provision is re-enacted without amendment and this section is re-enacted without amendment so as to apply to that provision as re-enacted.

Compare: 1956 No 107 s 189; 1975 No 28 s 6(2)(e); 1986 No 116 s 8

*Transitional provisions***269 Membership of Representation Commission**

- (1) Every person who held office as a member of the Representation Commission under section 15(2)(e) or section 15(2)(f) or section 15(3)(b) of the Electoral Act 1956 immediately before the commencement of this section shall be deemed to have been appointed as a member of the Commission under section 28(2)(e) or section 28(2)(f) or section 28(3)(b) of this Act, as the case may require.
- (2) For the purpose of enabling the Representation Commission to divide New Zealand into electoral districts on the first occasion after this Act is passed, the Minister shall, as soon as is practicable after the commencement of this section, specify a period of 2 months during which any Maori may exercise the option given by section 76 of this Act.
- (3) Following the report of the Chief Registrar under section 77(6) of this Act, the Government Statistician shall prepare a report on the General electoral population and the Maori electoral population in accordance with the provisions of this Act, based on the results of the periodical census conducted in the year 1991, and the report of the Chief Registrar made pursuant to section 77(6) of this Act, and shall report the results of the census and his or her calculation of the electoral populations to the Surveyor-General and to the other members of the Commission.
- (4) Upon the receipt of that report, the Surveyor-General shall prepare maps showing the distribution of the population and provisional boundaries for the General electoral districts and the Maori electoral districts and shall then call a meeting of the Commission.
- (5) The report so made by the Government Statistician, and the maps so prepared by the Surveyor-General, shall be sufficient evidence as to the General electoral population and the Maori electoral population of New Zealand or of the North Island or of the South Island or of any district.
- (6) In relation to the first occasion on which, after the commencement of this section, New Zealand is, under this Act, divided

into electoral districts, section 35(3)(f)(i) of this Act shall not apply.

**270 Electoral districts, electoral rolls, general elections, and by-elections**

- (1) Every General electoral district and every Maori electoral district in existence under the Electoral Act 1956 immediately before the commencement of this section shall remain in existence until such districts are replaced by new electoral districts in accordance with the provisions of sections 40 and 45 of this Act.
- (2) Every electoral roll in force under the Electoral Act 1956 immediately before the commencement of this section shall continue in force until replaced by new electoral rolls in accordance with the provisions of sections 101 to 103 of this Act.
- (3) For the purposes of any general election of members of Parliament conducted following a dissolution of Parliament that takes place before the gazetting of the notice required by section 40(1)(b) or section 45(9)(b) of this Act on the first occasion when the gazetting of such a notice is required to take place under the provisions of this Act, that general election shall be conducted in accordance with the provisions of the Electoral Act 1956, notwithstanding its repeal by the provisions of this Act.
- (4) For the purposes of any by-election that takes place before the first general election that is conducted in accordance with the provisions of this Act, the electoral district in respect of which that election is conducted shall be the relevant electoral district that was in existence immediately before the commencement of this section, and the provisions of this Act, including subsections (2) to (4) of section 102, shall apply accordingly and with any necessary modifications, in respect of the conduct of that election.
- (5) Any person who immediately before the commencement of this section held the position of—
  - (a) Clerk of the Writs; or
  - (b) Deputy Clerk of the Writs; or
  - (c) Chief Electoral Officer; or
  - (d) Deputy Chief Electoral Officer; or

- (e) Returning Officer; or
  - (f) Deputy Chief Registrar of Electors; or
  - (g) Registrar of Electors—
- shall, without further appointment, be deemed, as from the commencement of this section, to have been duly appointed under this Act.

*Amendment to Constitution Act 1986*

**271 Term of Parliament**

Section 17 of the Constitution Act 1986 is hereby amended by repealing subsection (2), and substituting the following subsection:

- “(2) Section 268 of the Electoral Act 1993 shall apply in respect of subsection (1) of this section.”

*Amendment to Civil List Act 1979*

**272 Questioned elections of members of Parliament**

the Civil List Act 1979 is hereby amended by repealing section 19, and substituting the following section:

**“19**

- (1) Where, at the conclusion of the trial of an election petition, the High Court or the Court of Appeal determines that a person elected or returned was not duly elected or returned or that the election at which that person was elected or returned was void, the salary and allowance to which that person would have been entitled if that person had been duly elected and returned as a member of Parliament shall be paid to that person, in respect of the period commencing on the day after polling day and ending with the earlier of the following days:

“(a) The day on which the House of Representatives, pursuant to section 246(2) of the Electoral Act 1993, gives directions for the altering of the return:

“(b) The day on which the seat becomes vacant, by death or otherwise.

- “(2) Where, at the conclusion of the trial of an election petition, the High Court or the Court of Appeal determines

that a person, other than the person who was elected or returned, was duly elected and the return, in accordance with directions given under section 246(2) of the Electoral Act 1993 is altered to carry out that determination, the salary and allowance to which the person declared elected pursuant to the altered writ or return would have been entitled if that person's name had been endorsed on the writ or return when it was first returned shall, notwithstanding anything in subsection (1) of this section, be paid to that person.

“(3) In this section the expression **polling day** has the meaning assigned to that term by section 18(5) of this Act.”

*Amendment to Higher Salaries Commission Act  
1977*

**273 Officers whose remuneration is to be determined by  
Higher Salaries Commission**

Schedule 4 to the Higher Salaries Commission Act 1977 (as substituted by section 14 of the Higher Salaries Commission Amendment Act 1988) is hereby amended by inserting, after the item relating to the members and associate members of the Commerce Commission, the following item:

“• The members of the Electoral Commission.”

*Amendments to Local Elections and Polls Act  
1976*

**274 Residential electoral roll**

*[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). See sections 153 to 157 of that Act as to the transitional provisions. See clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**275 Supply of information by Chief Registrar of Electors**

*[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). See sections 153 to 157 of that Act as to the transitional provisions. See clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**276 Application for registration as Parliamentary elector***[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**277 Completion of roll***[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**278 Amendments to roll***[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**279 Roll for by-election or poll***[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**280 Special voters***[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

**281 Election to fill extraordinary vacancy in local authority***[Repealed]*

Sections 274 to 281 were repealed, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

*Amendment to Ombudsmen Act 1975*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**282 Organisations to which Ombudsmen Act 1975 applies**

*[Repealed]*

Section 282 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

*Amendments to Public Finance Act 1989*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**283 Crown entities**

*[Repealed]*

Section 283 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

*Repeals*

**284 Repeals**

The enactments specified in Schedule 3 to this Act are hereby repealed.

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**Schedule 1**

Section 14

**Provisions relating to Electoral  
Commission**

**1 Conflict of interest disclosure rules do not apply to additional members who hold office for purposes of jurisdiction under Part 6 of Broadcasting Act 1989**

Sections 62 to 72 of the Crown Entities Act 2004 do not apply to a member of the Electoral Commission appointed under section 8(4)(b).

Subclause (1) was amended, as from 1 April 2003, by section 4(1) Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54) by substituting the words “Remuneration Authority” for the words “Higher Salaries Commission”.

Clause 1 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**2 Travelling allowances and expenses***[Repealed]*

Clause 2 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**2A Meetings of Commission***[Repealed]*

Clause 2A was inserted, as from 1 July 1996, by section 9 Electoral Amendment Act (No 2) 1996 (1996 No 54).

Subclause (4) was substituted, as from 7 December 2004, by section 10 Electoral Amendment Act 2004 (2004 No 99).

Clause 2A was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**3 Staff**

The chief executive of the Electoral Commission may, under delegation from the Board, appoint any officers and employees (including acting or temporary or casual officers and employees) as may be necessary for carrying this Act into effect.

Clause 3 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**4 Superannuation or retiring allowances**

- (1) For the purposes of providing superannuation or retiring allowances for the chief executive, the Commission may, out of the funds of the Commission, make payment to or subsidise any superannuation scheme that is registered under the Superannuation Schemes Act 1989.
- (2) Notwithstanding anything in this Act, any person who, immediately before being appointed as the chief executive or, as the case may be, becoming an officer or employee of the Electoral Commission, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to hold office as the chief executive or, as the case may be, to be an officer or employee of the Commission; and that Act shall apply to that person in all respects as if that per-

son's service as the chief executive or, as the case may be, as such an officer or employee were Government service.

- (3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) of this clause entitles any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2) of this clause, to a person who holds office as the chief executive or, as the case may be, is in the service of the Electoral Commission as an officer or employee and (in any such case) is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to any such person, means the chief executive.

Subclause (1) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## **5 Application of certain Acts to Commission and staff**

*[Repealed]*

Clause 5 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## **6 Services for Commission**

*[Repealed]*

Clause 6 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## **7 Funds of Commission**

*[Repealed]*

Clause 7 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

## **8 Bank accounts**

*[Repealed]*

Clause 8 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**9 Investment of money***[Repealed]*

Clause 9 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**10 Commission not to borrow without consent of Minister of Finance***[Repealed]*

Clause 10 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**11 Seal***[Repealed]*

Clause 11 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**12 Exemption from income tax**

The income of the Commission shall be exempt from income tax.

**13 Crown entity***[Repealed]*

Subclause (2) was substituted, as from 1 July 2001, by section 53 Public Audit Act 2001 (2001 No 10).

Clause 13 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**14 Commission may state case for opinion of High Court**

- (1) The Commission may, at any time, state a case for the opinion of the High Court on any question of law arising in any matter before it.
- (2) The High Court may order the removal into the Court of Appeal of any case stated for the opinion of the High Court under this section.
- (3) The High Court or the Court of Appeal, as the case may be, must hear and determine the question, and must remit the case with its opinion to the Commission.

Clause 14 was inserted, as from 28 February 2002, by section 99 Electoral Amendment Act 2002 (2002 No 1).

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Form 1—*continued*

Form 1 was substituted, as from 28 February 2002, by section 100(1) Electoral Amendment Act 2002 (2002 No 1).

Form 2 Section 125  
Warrant for issue of writs for general election  
*[Repealed]*

Form 2 was repealed, as from 28 February 2002, by section 100(2) Electoral Amendment Act 2002 (2002 No 1).

Form 3 Section 125  
Writ for general election

Governor-General

To the Chief Electoral Officer:

Pursuant to section 125 of the Electoral Act 1993, I authorise and require you to make all necessary arrangements for the conduct of a general election.

The last day and time for the nomination of constituency candidates is noon on [date]

Polling day is Saturday, [date].

You are required to endorse on this writ the name of every constituency candidate who is elected, and then return the writ to the Clerk of the House of Representatives on or before [date].

Signed by Her Excellency the Governor-General at [place] on [date].

CD,  
Minister of Justice

Form 3 was substituted, as from 28 February 2002, by section 100(3) Electoral Amendment Act 2002 (2002 No 1).



Form 4A Section 128C(1)  
Notice of withdrawal of party list

To the Chief Electoral Officer

I, the undersigned Secretary of the [*Specify*] political party, hereby give notice that I withdraw the list of candidates submitted under section 127 of the Electoral Act 1993 as the party's candidates for election pursuant to sections 191 to 193 of the Electoral Act 1993.

The form to which that list was annexed was dated the \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

.....  
[*Signature of the Secretary of the political party*]

Form 4A was inserted, as from 6 December 1995, by section 88 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Form 5  
Form of consent to inclusion of name on party  
list  
*[Repealed]*

Form 5 was repealed, as from 17 May 2005, by section 3(3) Electoral Amendment Act 2005 (2005 No 50).

Form 6 Section 129(2)(c)  
Writ for by-election

To the Chief Electoral Officer

Pursuant to section 129 of the Electoral Act 1993, I authorise and require you to make all necessary arrangements for the conduct of a by-election in the [*insert district*] electoral district.

The last day and time for the nomination of constituency candidates is noon on [*date*].

Polling day is Saturday, [*date*].

You are required to endorse on this writ the name of the constituency candidate who is elected, and then return the writ to the Clerk of the House of Representatives on or before [*date*].

Signed by Her Excellency, the Governor-General at [*place*] on [*date*].

CD,  
Minister of Justice

Form 6 was substituted, as from 28 February 2002, by section 100(4) Electoral Amendment Act 2002 (2002 No 1).

Form 7  
Warrant to supply vacancy

Section 134

To the Chief Electoral Officer

PURSUANT to the Electoral Act 1993, I hereby authorise and direct you to proceed forthwith to supply a member of Parliament to fill a vacancy created by the [*Specify reason for vacancy*] of [*Specify name of previous member*].

[Signed by Her Excellency, the Governor-General at [*place*] on [*date*].

CD,  
Minister of Justice]

Form 7 was amended, as from 28 February 2002, by section 100(5) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “Signed by Her Excellency, the Governor-General at [*place*] on [*date*]. CD, Minister of Justice” for the words “Dated this day of 19. E.F., Speaker of the House of Representatives.”.

Form 8  
Notice of nomination day and polling day  
*[Repealed]*

Section 142

Forms 8 and 9 were repealed, as from 28 February 2002, by section 100(6) Electoral Amendment Act 2002 (2002 No 1).

Form 9  
Nomination paper  
*[Repealed]*

Section 143

Forms 8 and 9 were repealed, as from 28 February 2002, by section 100(6) Electoral Amendment Act 2002 (2002 No 1).





**Form 12**  
**Ballot paper for by-election**

Section 150(18)



BALLOT PAPER FOR BY-ELECTION

.....  
[Consecutive Number]

ELECTION OF MEMBER OF PARLIAMENT FOR THE [Insert Name]  
**ELECTORATE**

*Directions*

Vote by putting a tick in the circle immediately before the name of the candidate you choose.

Form 12—*continued*

Vote for only one candidate

Vote Here

<input type="radio"/>	<b>ARNOLD, Kristeena Wendy Jane</b> LABOUR
<input type="radio"/>	<b>BABBINGTON, Santaana</b> NEW ZEALAND PARTY
<input type="radio"/>	<b>CAPSTEEN, Timothy John Albert</b> CITIZENS AGAINST POLITICAL PARTIES
<input type="radio"/>	<b>CHRISTENSEN, Cristopher</b> INDEPENDENT
<input type="radio"/>	<b>HIGGINSON, Florence Joan</b> McGILLICUDDY SERIOUS
<input type="radio"/>	<b>NIGHTINGALE, Kenneth</b> DEMOCRATS
<input type="radio"/>	<b>O'SULLIVAN, Samantha</b> NATIONAL
<input type="radio"/>	<b>PHILLIPS, Joshua</b> NEW LABOUR
<input type="radio"/>	<b>SEARANKE, John</b> MANA MOTUHAKE
<input type="radio"/>	<b>SHAW, Denis</b> IMPERIAL BRITISH CONSERVATIVE

[Insert  
party  
logo (if  
registered)  
to the  
right of  
the name  
of the  
candidate.]

*Final Directions*

1. If you spoil this ballot paper, return it to the officer who issued it and apply for a new ballot paper.
2. After voting, fold this ballot paper so that its contents cannot be seen and place it in the ballot box.
3. You must not take this ballot paper out of the polling booth.

## NOTES\*

1. As to the insertion of names of political parties, see ss 150(6)(d), 150(10), and 151 of the Act.
  2. As to the insertion of the word “independent”, see s 150(8) of the Act.
- \*Not to be in printed as part of the form.

Form 12 was substituted, as from 6 December 1995, by section 90 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**Form 13  
Counterfoil**

Section 150(14)

Consecutive No. ....

No. on Roll: (To be entered here only)	
Page No.	Line No.
Initials of Issuing Officer	
_____	

Form 13 was substituted, as from 6 December 1995, by section 91 Electoral Amendment Act (No 2) 1995 (1995 No 61).

**Form 14**  
**Declaration of result of poll**

Section 179

Electoral District

I HEREBY declare the result of the poll taken on the \_\_\_\_\_ day of \_\_\_\_\_ Electoral District to be as follows:

Candidates	Votes Received
CD .. .. .	
EF .. .. .	
GH .. .. .	
IJ .. .. .	
KL .. .. .	
Total number of valid votes .. .. .	
Number of votes rejected as informal .. .. .	

I therefore declare the said CD to be elected.

I further declare the total number of votes received by political parties as a consequence of votes recorded on [the party vote part] of the ballot paper to be as follows:

Parties	Votes Received
A	
B	
C	
D	
E	
F	
G	

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

AB,  
[Chief Electoral Officer.]

Form 14 was amended, as from 6 December 1995, by section 92 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “the party vote part” for the expression “Part B”.

Form 14 was amended, as from 28 February 2002, by section 100(7) Electoral Amendment Act 2002 (2002 No 1) by substituting the words “Chief Electoral Officer” for the words “Returning Officer”.

**Form 15** Section 191(3)  
**Working sheet in relation to candidates whose  
names are included in party lists**

Name of Party	<i>Party A</i>	<i>Party B</i>	<i>Party C</i>	<i>Party D</i>	<i>Party E</i>
Total Votes received under Part B					

*Enter totals under relevant heading*

Name of Party	<i>QUOTIENTS OF DIVISIONS</i>				
	<i>Party A</i>	<i>Party B</i>	<i>Party C</i>	<i>Party D</i>	<i>Party E</i>
Total Votes Divided by					
1					
3					
5					
7					
9					
11					
13					
15					
17					
”					
”					

*Enter quotients of divisions here under the columns for each  
party*

Form 15 was amended, as from 6 December 1995, by section 93 Electoral Amendment Act (No 2) 1995 (1995 No 61) by substituting the words “party vote part of the ballot paper” for the expression “Part B”.

**Form 16** Section 210  
**Return of election expenses and election  
donations**  
*[Repealed]*

Form 16 was substituted, as from 6 December 1995, by section 94 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Forms 16 and 17 were repealed, as from 28 February 2002, by section 100(8) Electoral Amendment Act 2002 (2002 No 1).

**Form 17** Section 214H(1)(b)  
**Return of electorate donations**  
*[Repealed]*

Form 17 was inserted, as from 6 December 1995, by section 95 Electoral Amendment Act (No 2) 1995 (1995 No 61).

Form 17—*continued*

Forms 16 and 17 were repealed, as from 28 February 2002, by section 100(8) Electoral Amendment Act 2002 (2002 No 1).

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**Schedule 3**  
**Enactments repealed**

Section 284

- 1956, No 107—The Electoral Act 1956. (RS Vol 26, p 173.)
- 1960, No 4—The Electoral Amendment Act 1960. (RS Vol 26, p 333.)
- 1965, No 17—The Electoral Amendment Act 1965. (RS Vol 26, p 333.)
- 1967, No 149—The Electoral Amendment Act 1967. (RS Vol 26, p 333.)
- 1971, No 67—The Electoral Amendment Act 1971. (RS Vol 26, p 334.)
- 1974, No 54—The Electoral Amendment Act 1974. (RS Vol 26, p 335.)
- 1975, No 28—The Electoral Amendment Act 1975. (RS Vol 26, p 335.)
- 1976, No 46—The Electoral Amendment Act 1976. (RS Vol 26, p 339.)
- 1977, No 128—The Electoral Amendment Act 1977. (RS Vol 26, p 340.)
- 1979, No 12—The Electoral Amendment Act 1979. (RS Vol 26, p 341.)
- 1980, No 29—The Electoral Amendment Act 1980. (RS Vol 26, p 341.)
- 1981, No 120—The Electoral Amendment Act 1981. (RS Vol 26, p 346.)
- 1983, No 104—The Electoral Amendment Act 1983. (RS Vol 26, p 351.)
- 1985, No 120—The Criminal Justice Act 1985: So much of Schedule 1 as relates to the Electoral Act 1956.
- 1985, No 149—The Electoral Amendment Act 1985. (RS Vol 26, p 353.)

- 1985, No 150–The Electoral Amendment Act (No 2) 1985. (RS Vol 26, p 355.)
- 1986, No 16–The Area Health Boards Amendment Act 1986: Section 7(1).
- 1986, No 116–The Electoral Amendment Act (No 2) 1986. (RS Vol 26, p 56.)
- 1986, No 124–The State-Owned Enterprises Act 1986: So much of Schedule 3 as relates to the Electoral Act 1956.
- 1987, No 74–The Immigration Act 1987: So much of Schedule 4 as relates to the Electoral Act 1956.
- 1987, No 87–The Electoral Amendment Act (No 2) 1987. (RS Vol 26, p 357.)
- 1988, No 159–The Foreign Affairs Act 1988: So much of the Schedule as relates to the Electoral Act 1956.
- 1988, No 160–The New Zealand Trade Development Board Act 1988: So much of Schedule 2 as relates to the Electoral Act 1956.
- 1989, No 31–The Electoral Amendment Act 1989. (RS Vol 26, p 357.)
- 1989, No 44–The Public Finance Act 1989: So much of Schedule 1 as relates to the Electoral Act 1956.
- 1989, No 142–The Acts and Regulations Publication Act 1989: Section 22. (RS Vol 26, p 358.)
- 1990, No 1–The Electoral Amendment Act 1990. (RS Vol 26, p 359.)
- 1991, No 68–The Electoral Amendment Act 1991.
- 1992, No 36–The Electoral Amendment Act 1992.
- 1993, No 98–The Electoral Amendment Act 1993.

The item referring to the Electoral Amendment Act 1993 was inserted, as from 26 August 1993, by section 31 Electoral Amendment Act 1993 (1993 No 98).