

Electoral (Adjustment of Thresholds) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill proposes to amend the Electoral Act 1993, to implement the recommendations of the Electoral Commission with respect to the party vote threshold.

Objectives

This Bill proposes to implement the main recommendations of the Electoral Commission review of MMP in time for the 2014 election.

Background

The Prime Minister announced that the Government would hold a referendum on the electoral system during the 2008 election campaign. In recognition that there were concerns about some aspects of MMP, the Government made provision in the legislation for the Electoral Commission to review the system as soon as practicable after the result of the referendum was declared. The scope of the review was detailed in section 76 of the Electoral Referendum Act 2010.

The Electoral Commission commenced the review as soon as practicable after the 2011 general election. The Electoral Commission undertook the first stage of the public consultation period, which ended in May 2012. The Commission received over 4 600 submissions and held public hearings in Auckland, Christchurch, Hamilton, and Wellington to hear from those people who wanted to present their submissions in person.

Drawing on the information and material presented in submissions and advice received, the Commission then developed a number of proposals. These were released as a Proposals Paper on 13 August 2012, with an invitation to the public to again provide written comments on them. Over 1 000 thousand submissions were received on the Proposals Paper. A final report with the Commission's recommendations was presented to the Minister of Justice on 29 October 2012.

The overwhelming weight of submissions favoured the removal of the single electoral seat threshold and the reduction in the party vote threshold from 5% to 4%.

The classic example of the unfairness was exposed in the 2008 election when the then ACT Leader Rodney Hide won the Epsom seat and with 3.6% of the party vote brought in 4 ACT list MPs. New Zealand First on the other hand won 4.1% of the party vote but did not win an electorate seat, so ended up having no MPs. That is why reducing the threshold from 5% to 4% at the same time as removing the one electoral seat threshold makes good sense.

The Electoral Commission has said these are not issues that need to go to a referendum, which means the Government can proceed to introduce a Bill. However, the Government has indicated that it will be consulting with other parties next year in order to achieve consensus. Some parties have already indicated that consensus is not going to be achieved.

There is no reason to delay. Parliament owes it to the people of New Zealand to amend the system that they chose to support in the referendum and for which they have sought amendment. If the referendum decision had been to change the voting system, the Government would have been required to conduct a referendum on the preferred alternative at the 2014 election. That is why, in order to keep faith with the integrity of the referendum, these changes must be implemented in time for the 2014 general election.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on a date appointed by Order in Council, otherwise on 1 January 2014.

Clause 3 provides that the Bill amends the Electoral Act 1993 (the **principal Act**).

Clause 4 states the Bill's purpose, which is to adjust the party vote thresholds.

Clause 5 replaces section 191(4) to provide that the Electoral Commission must disregard any total under the name of any party that has not achieved a total that is at least 4% 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.

Clause 6 requires the Electoral Commission to review the party vote thresholds and any other matters covered by the review after 3 general elections.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electoral (Adjustment of Thresholds) Amendment Act **2013**.

2 Commencement

Unless brought into force on an earlier date appointed by the Governor-General by Order in Council, which may be made without further authority than is provided by this section, this Act comes into force on 1 January 2014. 5

3 Principal Act

This Act amends the Electoral Act 1993 (the **principal Act**).

4 Purpose

The purpose of this Act is to adjust the party vote thresholds. 10

5 Section 191 amended (Election of other members)

Replace section 191(4) with:

- (4) The Electoral Commission must disregard any total under the name of any party that has not achieved a total that is at least 4% 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.

6 New section 9A inserted (Review) 5

After section 9A, insert:

9B Review

- (1) The Electoral Commission must commence a review of the 4% threshold as soon as practicable after 3 general elections have occurred following the commencement of this section. 10
- (2) The purpose of the review is to—
- (a) determine through a public consultative process whether changes are necessary or desirable; and
 - (b) prepare a report of the review including any recommendations for changes to the Minister of Justice. 15
- (3) As soon as practicable after receiving the report, the Minister must present a copy to the House of Representatives.