Local Electoral Amendment Bill 2011

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Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.

Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of this Bill is to amend the Local Electoral Act 2001 and the Local Electoral Regulations 2001 to “improve provisions for the conduct of local elections and strengthen the integrity and efficiency of the local electoral system”.

Background

Need for the Bill

“The Local Electoral Regulations 2001 provide the legislative framework for the triennial elections of members of territorial authorities (district and city councils), regional councils, local boards, community boards, district health boards, and licensing trusts.

“The decisions implemented by the Bill were made after the Government considered the recommendations for legislative amendments of the Justice and Electoral Committee's 2011 report on...

its inquiry into the conduct of the 2010 local authority elections and the Local Government Commission’s 2008 statutory review of the Local Electoral Act 2001. Both those reports found the legislative framework for local elections is generally sound and meets its purpose. However, both recommended technical and procedural amendments. The amendments in the Bill reflect those recommendations.2

Regulatory impact statement
A copy of the regulatory impact statement can be found at—


Main Provisions

Local Electoral Act 2001

Nomination day
The Local Electoral Act 2001 defines the term “nomination day” the 50th day before polling day. This Bill changes the definition to the 57th day before polling day and so extends the period for nominations back seven days (Part 1, Clause 4(2), amending definition of “nomination day” in Section 5(1) of the Local Electoral Act 2001).

Boundaries
The Bill allows a territorial authority to determine by resolution minor alterations to the boundaries of wards, communities, or subdivisions of communities, and regional councils to make minor alterations to the boundaries of constituencies, in certain situations including that there have been changes to the boundaries of allotments (the term allotment has the same meaning as it has in Section 218(2) of the Resource Management Act 1991 and is, broadly, property boundaries) and that the alterations are required to improve the effective representation of communities of interest affected by those changes. The proposed changes must be referred (with background information) to the Local Government Commission (the Commission) which must consider whether to uphold the proposal. Its decision must be given in writing. (Part 1, Clause 5, inserting New Sections 19JA and 19JB into the Local Electoral Act 2001).

Determination of membership for wards, constituencies and subdivisions
Section 19V of the Local Electoral Act 2001 sets out a requirement for fair representation and prescribes other factors in the determination of the membership for wards, constituencies, and subdivisions. The basic principle is stated as “In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community” (Section 19V(1)).

To give effect to this principle, a “territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than members elected by the electors of a territorial authority as a whole, if any, and the mayor, if any)” (Section 19V(2)).

However this test may be departed from for the fair representation of “island or isolated communities” or for the effective representation of “communities of interest” (Section 19V(3)).

The Bill adds two more exceptions to the fair representation requirement of Section 19V(2). The situations are that compliance would limit effective representation of communities of interest either by dividing a community of interest between wards or subdivisions or by uniting within a ward or subdivision two or more communities of interest with few commonalities of interest. A territorial authority must refer a decision not to comply with Section 19V(2) to the Commission (Part 1, Clause 7, amending Section 19V of the Local Electoral Act 2001).

Adjournment of electoral processes in emergencies

The Bill gives the Governor-General the power, on the recommendation of the Minister of Local Government (the Minister), to adjourn for up to six weeks, by order in council, certain electoral processes in certain situations. The order in council may specify a later date specify a later date for one or more of the following in respect of a triennial general election of members of one or more local authorities and community boards:

- the date by which, or dates during which, a certain qualification entitles an elector to be included on the electoral roll;
- the nomination day;
- the polling day;
- the date by which anything else may or must be done under the Local Electoral Act 2001, regulations made under it, or under this Bill.

The Minister must be satisfied that the order is necessary to ensure that the adverse effects of a local or national emergency do not deny electors a reasonable opportunity to cast a valid vote, nominate a candidate, or accept nomination as a candidate in relation to the election. He or she must also have consulted every local authority and electoral officer that will be affected (Part 1, Clause 17, inserting New Section 73A into the Local Electoral Act 2001).

Local Electoral Regulations 2001

Dates and candidate profiles

The Bill amends the Local Electoral Regulations 2001 to change the dates by which, or dates during which, certain qualifications entitle an elector to be included on the electoral roll to be seven days earlier, aligning them with the change to the definition of nomination day in Section 5(1) of the principal Act. “The amendments also allow a local authority publish or display candidate profile statements at any time after the close of nominations”3 (Part 2, Clause 24 amending the Local Electoral Regulations 2001).

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3 Local Electoral Amendment Bill, 2011 No 340-1, Explanatory note, clause by clause analysis, p. 5.