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ANALYSIS

Title

1. Short Title
2. Commencement
3. Interpretation

PART I

ELECTORAL COMMISSION

4. Electoral Commission
5. Functions
6. Powers
7. Independence
8. Membership
9. Appointment of Judge as member not to affect tenure, etc.
10. Term of office
11. Vacation of office
12. Delegation of Commission's powers
13. Procedure
14. Proceedings of Electoral Commission
15. Annual report

PART II

OFFICERS

16. Clerk of the Writs
17. Deputy Clerk of the Writs
18. Chief Electoral Officer
19. Deputy Chief Electoral Officer
20. Returning Officers and other employees
21. Chief Registrar of Electors
22. Registrar of Electors
23. Appropriation of expenses of New Zealand Post Limited
24. Employees appointed by Chief Electoral Officer
25. General provision as to Returning Officers
26. Returning Officer to make declaration

PART III

THE HOUSE OF REPRESENTATIVES

27. Members of Parliament

Representation Commission

28. Representation Commission
29. Term of office
30. Extraordinary vacancies

31. Remuneration and travelling allowances
32. Deputies of appointed members
33. Deputies of ex officio members
34. Submissions
35. Division of New Zealand into General electoral districts
36. Allowance for adjustment of quota
37. Classification of electoral districts for purposes of pay or allowances
38. Notice of proposed boundaries and classification
39. Communications to officials
40. Report of Commission
41. Report and maps to be laid before House of Representatives
42. Indexes of streets and places
43. Proceedings of Commission
44. Commissioner not eligible as member of House of Representatives.

Maori Representation

45. Maori representation

Chatham Islands

46. Electoral districts for and polling in Chatham Islands

Qualifications of Candidates and Members

47. Registered electors may be members, unless disqualified
48. Offence for public servant to sit
49. Removal of name from roll without cause
50. Effect of registration on wrong roll
51. Member ceasing to be elector
52. Candidacy and election of State servants
53. Members disqualified from being State servants

Term of Office of Member of Parliament

54. Term of office of member of Parliament

Vacancies

55. How vacancies created
56. Member becoming mentally disordered

57. Registrar of Court to notify cause of vacancy in certain cases
58. Registrar of Births and Deaths to notify Speaker of death of member
59. No person to be candidate for more than one district

Persons Qualified to Vote

60. Who may vote
61. Special voters

PART IV

REGISTRATION OF POLITICAL PARTIES

62. Register of Political Parties
63. Application for registration
64. Party not to be registered at certain times
65. Parties with certain names not to be registered
66. Other grounds on which registration may be refused
67. Registration
68. Inspection of Register
69. Changes to Register
70. Cancellation of registration
71. Requirement for registered parties to follow democratic procedures in candidate selection

PART V

REGISTRATION OF ELECTORS

72. Rules for determining place of residence within New Zealand
73. Meaning of "permanent resident of New Zealand"

Qualification of Electors

74. Qualification of electors
75. Registration in respect of more than one electoral district
76. Maori option
77. Periodic exercise of Maori option and determination of Maori population
78. Exercise of Maori option
79. Restriction on transfer between General and Maori electoral rolls
80. Disqualifications for registration
81. Detention in penal institution pursuant to conviction

Registration

82. Compulsory registration of electors
83. Revision of electoral rolls
84. Power to combine revisions of electoral rolls with exercise of Maori option
85. Application for registration
86. Registration of mentally incapable persons
87. Procedure following application for registration
88. Applications received after issue of writ
89. Notice of registration

Changes of Address

90. Changes of address to be notified
91. Effect of failure to notify change of address

Death of Registered Elector

92. Notification of death of registered elector

Marriage of Registered Elector

93. Notification of marriages

Change of Name of Registered Elector

94. Notification of change of name

Objections to Registration

95. Elector's objection
96. Registrar's objection
97. Procedure on reference of application or objection to District Court

Removal of Names from Roll and Alterations to Roll

98. Removal of names from roll by Registrar
99. Notice of alterations to roll
100. Corrupt Practices List

Electoral Rolls

101. Electoral rolls
102. Maintenance of rolls being replaced
103. Rolls where Parliament dissolved after change of boundaries and before new rolls completed
104. Main roll to be printed
105. Supplementary rolls to be printed
106. Form of main roll and supplementary rolls
107. Composite rolls
108. Habitation indexes
109. Dormant file
110. Public inspection of rolls, etc.
111. Inspection of rolls at hui
112. Supply of information on age and Maori descent
113. Supply of computer-compiled lists and computer tapes to local authorities
114. Supply of computer tapes and computer-compiled lists to candidates and political parties
115. Unpublished names

Offences

116. Offences relating to use of electoral information
117. Offences in respect of manipulating or processing electoral information
118. False statements or declarations
119. Willfully misleading Registrar
120. Duty to report suspected offences
121. Failure to deliver application

Miscellaneous Provisions

122. Assistance to be given to Registrar
123. Copies of rolls for Returning Officer
124. Power to destroy records

PART VI

ELECTIONS

General Elections

- 125. Governor-General's warrant for issue of writs
- 126. Writs for general election
- 127. Election of list candidates
- 128. Acceptance or rejection of lists by Chief Electoral Officer

By-Elections for Vacancies in Seats of Members Representing Electoral Districts

- 129. By-elections for members representing electoral districts
- 130. When Governor-General to act for Speaker
- 131. Power to resolve in certain cases that by-election not be held
- 132. Writ for by-election
- 133. No writ to issue pending election petition

Filling of Vacancies in Other Seats

- 134. Speaker's warrant for supply of vacancy
- 135. When Governor-General to act for Speaker
- 136. Power to resolve in certain cases not to supply vacancy
- 137. Method of supplying vacancy
- 138. Filing of return

Issue of Writs

- 139. Contents of writ
- 140. Clerk of Writs to notify Registrar
- 141. Notice to Returning Officer
- 142. Returning Officer to give public notice of nomination day and polling day

Nominations

- 143. Nominations of candidates for electoral districts
- 144. Deposit by candidate
- 145. Acceptance or rejection of nomination
- 146. Withdrawal of nomination

Advertisements

- 147. Advertisement of nomination and polling places

Uncontested Elections

- 148. Procedure where election not contested

Elections

- 149. Poll to be taken
- 150. Form of ballot papers
- 151. Name of political party for constituency candidates

Death of Candidate

- 152. Death before close of nominations
- 153. Death after close of nominations

Candidates' Meetings

- 154. Use of public schoolrooms for election meetings

Polling at Elections

- 155. Power to appoint polling places
- 156. Use of public schools as polling places
- 157. Polling booths, ballot boxes, ballot papers, etc.
- 158. Deputy Returning Officers, poll clerks, ushers, and interpreters
- 159. Deputy Returning Officers, poll clerks, ushers, and interpreters to make declaration
- 160. Scrutineers
- 161. Hours of polling
- 162. Employees to have time off to vote

Voting

- 163. Ballot box to remain closed during poll
- 164. Persons not to remain in polling places
- 165. Voters not to be communicated with in booth
- 166. Questions may be put to voters
- 167. Issue of ballot papers
- 168. Method of voting
- 169. Spoilt ballot papers
- 170. Blind, disabled, or illiterate voters
- 171. Procedure when second vote given in same name

Special Voting

- 172. Voting by special voters
- 173. Voting by special voters on Tokelau, Campbell Island, Raoul Island, and in Ross Dependency

Preliminary Count of Votes

- 174. Procedure after close of poll

Scrutiny of the Rolls

- 175. Scrutiny of the rolls
- 176. Marked copies of rolls to be compared
- 177. Parcels to be secured after scrutiny

Official Count and Declaration of Poll

- 178. Counting the votes
- 179. Declaration of result of poll

Recount

- 180. Application to District Court Judge for recount
- 181. Application by political party for recount in every electoral district
- 182. Ability to combine recounts
- 183. Scrutineers for recounts and allocation of list seats
- 184. Ballot papers and certificate to be compared on recount

Return of Writ

- 185. Endorsement and return of writ
- 186. Copy of writ to be forwarded to Clerk of the House

Disposal of Ballot Papers

- 187. Disposal of ballot papers, rolls, etc.
- 188. Annotation of list of special voters
- 189. Disposal of packets
- 190. Papers taken from parcels as evidence in certain cases

List Seats

- 191. Election of other members
- 192. Determination of party eligibility for list seats
- 193. Selection of candidates

Maintenance of Order at Elections

- 194. Deputy Returning Officers to maintain order

Adjournment of Poll

- 195. Adjournment of poll

Custody of Ballot Papers

- 196. Prevention of irregularities as to ballot papers

Offences at Elections

- 197. Interfering with or influencing voters
- 198. Power to remove statements, names, emblems, slogans, or logos
- 199. Recovery of expenses
- 200. Erasing and altering official mark on ballot paper
- 201. Offences in respect of ballot papers and ballot boxes
- 202. Property to be stated as being in Returning Officer
- 203. Infringement of secrecy
- 204. Infringement of secrecy constitutes corrupt practice

Distribution of Page and Line Numbers

- 205. Distribution of page and line numbers

Candidates' Election Expenses

- 206. Periods for claiming and paying expenses
- 207. Procedure where claim disputed
- 208. Leave to pay claim after time limited
- 209. Payments to be vouched by bill
- 210. Return of election expenses
- 211. Return to be open for public inspection
- 212. Transmission of copy of return to Chief Electoral Officer
- 213. Maximum amount of election expenses
- 214. Apportionment of election expenses

PART VII

CORRUPT AND ILLEGAL PRACTICES

Corrupt Practices

- 215. Personation
- 216. Bribery
- 217. Treating
- 218. Undue influence

Illegal Practices

- 219. Payments for exhibition of election notices
- 220. Providing money for illegal purposes
- 221. Advertisements for candidates
- 222. Procurement of voting by unqualified voters

General Provisions

- 223. Cinematograph films
- 224. Punishment for corrupt or illegal practice
- 225. Persons charged with corrupt practice may be found guilty of illegal practice
- 226. Time limit for prosecutions
- 227. Punishment for disqualified person voting
- 228. Reversal of disqualification procured through perjury

PART VIII

ELECTION PETITIONS

- 229. Method of questioning election
- 230. Election petitions to High Court
- 231. Time for presentation of election petition
- 232. Security for costs
- 233. More than one petition relating to same election
- 234. Rules of Court

Trial of Election Petition

- 235. Court and place of trial
- 236. Trial of petition
- 237. Avoidance of election of candidate guilty of corrupt practice
- 238. Avoidance of election for general corruption
- 239. Votes to be struck off for corrupt practices
- 240. Real justice to be observed
- 241. Irregularities not to invalidate election
- 242. Decision of Court to be final
- 243. Certificate of Court as to result of election
- 244. Report of Court as to corrupt or illegal practices
- 245. Special report
- 246. Signature and effect of certificate and report

Witnesses

- 247. Summons and examination of witnesses
- 248. Certificate of indemnity to witness
- 249. Expenses of witnesses

Costs

- 250. Costs of petition
- 251. Costs payable by persons proved guilty of corrupt or illegal practices

Withdrawal and Abatement of Petitions

- 252. Withdrawal of petition
- 253. Substitution of new petitioner
- 254. Report on withdrawal
- 255. Abatement of petition

General Provisions

- 256. Withdrawal and substitution of respondents before trial
- 257. Submission of report to Attorney-General

258. Electoral petitions to Court of Appeal
 259. Time for presentation of an election petition to Court of Appeal
 260. Matters excluded from challenge
 261. Provisions applied
 262. Certificate of Court as to result of petitions

PART IX

MISCELLANEOUS PROVISIONS

263. Service of notices
 264. Review by select committee
 265. Registrars of Electors exempt from Court fees
 266. Validation of irregularities
 267. Regulations
 268. Restriction on amendment or repeal of certain provisions

Transitional Provisions

269. Membership of Representation Commission
 270. Electoral districts, electoral rolls, general elections, and by-elections

Amendment to Constitution Act 1986

271. Term of Parliament

Amendment to Civil List Act 1979

272. Questioned elections of members of Parliament

Amendment to Higher Salaries Commission Act 1977

273. Officers whose remuneration is to be determined by Higher Salaries Commission

Amendments to Local Elections and Polls Act 1976

274. Residential electoral roll
 275. Supply of information by Chief Registrar of Electors
 276. Application for registration as Parliamentary elector
 277. Completion of roll
 278. Amendments to roll
 279. Roll for by-election or poll
 280. Special voters
 281. Election to fill extraordinary vacancy in local authority

Amendment to Ombudsmen Act 1975

282. Organisations to which Ombudsmen Act 1975 applies

Amendments to Public Finance Act 1989

283. Crown entities

Repeals

284. Repeals Schedules

1993, No. 87

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

[17 August 1993]

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 IV

and Parts VI to IX of this Act and the Second and Third Schedules 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 I, II, III, and V of this Act and sections 267, 269, and 270 of this Act and the First Schedule 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 I to IX of this Act and the First, Second, and Third Schedules 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:

“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 VII and VIII 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" means the Clerk of the Writs appointed under this Act; and includes any person authorised to exercise the powers, duties, and functions of the Clerk of the Writs:

"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:

"Deputy Returning Officer" means a Deputy Returning Officer appointed under this Act; and includes any person authorised to exercise the powers, duties, and functions of a Deputy Returning Officer:

"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" has the meaning given to it by section 213 of this Act:

"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 roll", in relation to any district, means, subject to sections 101 to 103 of this Act, the forms of application for registration kept by the Registrar of persons registered as electors of that district (including the forms deemed by section 83 (6) of this Act to be applications for registration for the purposes of this definition):

"Eligible political party" means a political party that has at least 500 current financial members:

"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 licensed hospital within the meaning of the Hospitals Act 1957:

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

"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:

"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 (which shall be determined by dividing 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) of this Act, as electors of Maori electoral districts by the number of persons of New Zealand Maori descent registered, as at the close of that day, as electors of either General electoral districts or Maori 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:

“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” means a hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992:

“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:

“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” means a penal institution under the Penal Institutions Act 1954:

“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:

“Prescribed” means prescribed by this Act or by regulations made thereunder or (for the purposes of Part VIII of this Act) by rules of Court:

"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 Government Superannuation Fund Act 1956; 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:

"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:

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

"Returning Officer" means a Returning Officer appointed under this Act; and includes any person authorised to exercise the powers, duties, and functions of a Returning Officer:

"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 the Speaker of the House of Representatives:

"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 the Second Schedule 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.

Cf. 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 I

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) The Commission shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring, holding, and disposing of real and personal property, of entering into contracts, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may do and suffer.

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 as are prescribed by Part IV of this Act;
- (b) To promote public awareness of electoral matters by means of the conduct of education and information programmes or by other means;
- (c) 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.

6. Powers—(1) The Electoral Commission shall have all such powers as are reasonably necessary to enable it to carry out its functions.

(2) Without limiting the generality of subsection (1) of this section, 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:

- (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.

7. Independence—Except as otherwise provided in this or any other Act, in the performance of its statutory functions the Electoral Commission shall not be responsible to the Minister of Justice or to any other Minister of the Crown, but shall act independently.

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 a Judge of the District Court or of the High Court or of the Court of Appeal.
- (2) The person who holds office under subsection (1) (d) of this section shall be appointed by the Governor-General from a list of 3 persons nominated for the purpose by the Chief Justice, and shall be appointed as the President of the Commission.
- (3) The person who holds office under subsection (1) (c) of this section shall be the chief executive of the Commission.

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) Except as otherwise provided in section 11 of this Act, every Commissioner who holds office under paragraph (c) or paragraph (d) of section 8 (1) of this Act shall hold office for such term, not exceeding 5 years, as the

Governor-General on the recommendation of the Minister shall specify in the instrument appointing the Commissioner.

(2) Every Commissioner appointed for a fixed term shall be eligible for reappointment from time to time.

(3) Where the term for which a Commissioner has been appointed expires, that Commissioner, unless sooner vacating or removed from office under section 11 of this Act, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

- (a) That Commissioner is reappointed; or
- (b) A successor to that Commissioner is appointed; or
- (c) That Commissioner is informed in writing by the Minister that that Commissioner is not to be reappointed.

11. Vacation of office—(1) No Commissioner who holds office by virtue of section 8 (1) (c) of this Act shall be removed from office except by the Sovereign or the Governor-General, acting upon an address from the House of Representatives, which address may be moved only on the grounds of that person's misbehaviour or of that person's incapacity to discharge the functions of the office of Commissioner.

(2) The Commissioner who holds office by virtue of section 8 (1) (d) of this Act shall not be removed from the office of Commissioner, unless that Commissioner is removed or suspended from the Commissioner's judicial office.

(3) Any Commissioner who holds office by virtue of paragraph (c) or paragraph (d) of section 8 (1) of this Act may at any time resign the office of Commissioner by notice in writing addressed to the Minister.

(4) The powers of the Electoral Commission shall not be affected by any vacancy in its membership.

12. Delegation of Commission's powers—(1) The Electoral Commission may from time to time, either generally or particularly, by writing signed by all the members of the Commission, delegate to any one Commissioner any of its powers and functions under this Act or any other Act.

(2) Where the Commission has, pursuant to subsection (1) of this section, delegated any functions or powers to the Commissioner who holds office by virtue of section 8 (1) (c) of this Act, that Commissioner may, with the prior agreement in writing of all members of the Commission, delegate such of those functions or powers as all the members of the Commission approve, to any employee of the Commission.

(3) Subject to any general or special directions given or conditions imposed by the Commission, the person to whom any functions or powers are delegated under this section may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.

(4) The power of the Commission to delegate under this section—

(a) Is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Commission's functions or powers; but

(b) Does not limit any power of delegation conferred on the Commission by any other Act.

(5) A person purporting to act pursuant to a 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.

(6) A delegation under subsection (1) of this section to the Commissioner who holds office by virtue of section 8 (1) (c) of this Act shall,—

(a) Subject to paragraph (b) of this subsection, if the Commissioner to whom it was made ceases to hold office, continue to have effect as if made to the Commissioner who holds office by virtue of section 8 (1) (c) of this Act for the time being; and

(b) If there is no Commissioner who holds office by virtue of section 8 (1) (c) of this Act for the time being, or if that person is absent from duty, continue to have effect as if made to the person for the time being acting in place of that person.

(7) A delegation under this section to an employee of the Commission may be made to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or of specified classes of offices.

(8) A delegation under this section does not affect or prevent the performance of any function or the exercise of any power by the Commission or affect the responsibility of the Commission for the actions of any person acting under the delegation.

(9) A delegation under this section is revocable at will,—

(a) In the case of a delegation under subsection (1) of this section, by writing signed by at least 2 members of the Commission; or

(b) In the case of a delegation under subsection (2) of this section, by writing signed by the Commissioner who holds office by virtue of section 8 (1) (c) of this Act,—and until it is revoked continues in force according to its tenor.

13. Procedure—Subject to the provisions of this Act, the Commission may regulate its procedure in such manner as it thinks fit.

14. Proceedings of Electoral Commission—The provisions of the First Schedule to this Act shall have effect in relation to the Electoral Commission and its proceedings.

15. Annual report—(1) As soon as practicable after the end of each financial year ending with the 30th day of June, the Commission shall furnish to the Minister a report on its operations during the year.

(2) The Minister shall lay a copy of the report before the House of Representatives in accordance with section 44A of the Public Finance Act 1989.

PART II

OFFICERS

16. Clerk of the Writs—(1) The Governor-General shall from time to time, by Warrant under his or her hand, appoint some fit person to be Clerk of the Writs, by whom writs for the election of members of Parliament shall in all cases be issued, and to whom all such writs shall be returnable.

(2) Nothing in the State Sector Act 1988 shall apply to the Clerk of the Writs.

Cf. 1956, No. 107, s. 3

17. Deputy Clerk of the Writs—(1) The Governor-General shall also from time to time, by Warrant under his or her hand, appoint some fit person to be Deputy Clerk of the Writs.

(2) On the occurrence from any cause of a vacancy in the office of Clerk of the Writs (whether by reason of death, resignation, or otherwise), and in case of the absence from duty of the Clerk of the Writs (from whatever cause arising), and so long as any such vacancy or absence continues, the Deputy Clerk of the Writs shall have and may exercise all the functions, duties, and powers of the Clerk of the Writs.

(3) The fact that the Deputy Clerk of the Writs exercises any power, duty, or function of the Clerk of the Writs shall be conclusive evidence of his or her authority to do so.

(4) Nothing in the State Sector Act 1988 shall apply to the Deputy Clerk of the Writs.

Cf. 1956, No. 107, s. 4

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 IV and V) into effect.

Cf. 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.

Cf. 1956, No. 107, s. 6

20. Returning Officers and other employees—(1) There may from time to time be appointed under the State Sector Act 1988 as many Returning Officers, clerks, and other officials as are required to be appointed under that Act for the purposes of this Act.

(2) Returning Officers shall be under the direction of the Chief Electoral Officer.

Cf. 1956, No. 107, s. 7; 1975, No. 28, s. 3 (4) (a); 1981, No. 120, s. 2

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 V 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.

(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.

Cf. 1956, No. 107, s. 7A; 1986, No. 124, s. 32 (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.

Cf. 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 V of this Act shall be paid out of public money appropriated by Parliament.

Cf. 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.

Cf. 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.

Cf. 1956, No. 107, s. 9 (3); 1975, No. 28, s. 3 (4) (d)

26. Returning Officer to make declaration—Every Returning Officer and every Deputy Returning Officer shall, before entering on the duties of his or her office, make a declaration in form 1.

Cf. 1956, No. 107, s. 10

PART III

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 this Act, and who shall be known as “members of Parliament”.

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 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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 (who shall be a member of the senior executive service employed in the Department of which the chief executive is the administrative head) 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.

Cf. 1956, No. 107, s. 15B; 1991, No. 68, s. 2 (1)

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.

Cf. 1956, No. 107, s. 15C; 1991, No. 68, s. 2 (1)

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.

Cf. 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 percent.

Cf. 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 Higher Salaries Commission that it requires

the districts to be classified for the purposes of determining salaries or allowances or both under the Higher Salaries Commission Act 1977, shall classify those districts in accordance with the categories given to it by the Higher Salaries Commission.

Cf. 1956, No. 107, s. 17A; 1981, No. 120, s. 5

38. Notice of proposed boundaries and classification—

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

(a) Stating places at which the public may inspect, without charge,—

(i) 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 Higher Salaries Commission 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 classification (if any) (which date shall be not less than one month after the date of the publication of the notice in the *Gazette*).

(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.

Cf. 1956, No. 107, s. 18; 1991, No. 68, s. 4 (1)

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.

Cf. 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 available 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.

Cf. 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 28 days after the date of the receipt thereof if Parliament is then in session, and, if not, then within 28 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.

Cf. 1956, No. 107, s. 20; 1991, No. 68, s. 7

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 of Survey and Land Information.

(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 of Survey and Land Information and at such other convenient places as the Chief Electoral Officer from time to time directs.

Cf. 1956, No. 107, s. 20A; 1981, No. 120, s. 7 (1); 1989, No. 142, s. 22 (1); 1991, No. 68, s. 8

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.

Cf. 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.

Cf. 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 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 the boundaries fixed by it in respect of the Maori electoral districts to the Governor-General; and

(b) Publish in the *Gazette* a notice—

(i) Stating that the Commission has fixed the boundaries of the Maori electoral districts; and

(ii) Stating that the boundaries fixed by the Commission in respect of the Maori electoral districts are available for public inspection; and

(iii) Stating places at which copies of the 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.

Cf. 1956, No. 107, s. 23; 1981, No. 120, s. 8 (1); 1991, No. 68, s. 10

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.

Cf. 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) Notwithstanding anything in subsection (1) of this section, no person shall be qualified to be a candidate or to be elected unless that person is—

(a) A New Zealand citizen; or

(b) A person who was, on the 22nd day of August 1975, registered as an elector.

Cf. 1956, No. 107, s. 25; 1981, No. 120, s. 9 (1)

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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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 any oath or makes any declaration or acknowledgment of allegiance or adherence to any foreign Prince or Power; 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

(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 writing under his or her hand addressed and delivered to the Speaker of the House, or to the Governor-General if there is no Speaker or the Speaker is absent from New Zealand, or if the resigning member is 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) If he or she is proved to the satisfaction of a Committee of the House to have acted, for commission or other reward, as agent on behalf of the owner or of any other person having an interest in any land for the purpose of securing the purchase or acquisition of that land by the Crown.

(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.

Cf. 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)

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 II 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 II 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 registered 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 registered 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.

Cf. 1956, No. 107, s. 33; 1990, No. 1, s. 4 (1)

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, 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.

(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.

Cf. 1956, No. 107, s. 34; 1975, No. 28, s. 12 (e); 1990, No. 1, s. 5 (1)

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, or to the Governor-General if there is no Speaker or if the Speaker is absent from New Zealand.

(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.

Cf. 1956, No. 107, s. 35; 1990, No. 1, s. 5 (1)

59. No person to be candidate for more than one district—(1) No person shall be a candidate for more than one electoral district at any general election.

(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 a party list submitted pursuant to section 127 of this Act.

(4) If any person is a candidate for more than one district or at more than one by-election in breach of this section, all nominations of that person as a candidate for those districts or, as the case may be, for those by-elections, shall be void, and the deposits made by him or her shall be forfeited and be paid into the Crown Bank Account.

Cf. 1956, No. 107, s. 36; 1975, No. 28, s. 14

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 for the district:

(b) Any person who, after writ day and before polling day, applies for registration as an elector of the district and satisfies the Registrar not later than the 9th day after polling day that that person became qualified for registration as an elector of the district in the period commencing on the 31st day before writ day and ending with the close of the day 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 not later than writ 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 Armed Forces 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.

Cf. 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)

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 Deputy Returning 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.

Cf. 1956, No. 107, s. 100; 1990, No. 1, s. 50 (1)

PART IV

REGISTRATION OF POLITICAL PARTIES

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) Shall—
 - (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) Where the applicant is not the Secretary of the party, set out the name and address of the Secretary of the party; and
 - (v) Be accompanied by a declaration, made by the applicant in the manner provided by section 9 of the Oaths and Declarations Act 1957, that the party has at least 500 current financial members.

(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.

64. Party not to be registered at certain times—During the period—

- (a) Commencing on the date beginning with the issue of writs for the election of members of Parliament for all electoral districts within New Zealand; and

(b) Ending on the day appointed as the latest day for the return of writs containing the names of constituency candidates who are elected,—
no action shall be taken in relation to any application for the registration of a political party.

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.

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.

(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) For the purposes of exercising the powers conferred on it by subsection (1) (b) of this section or section 70 of this Act, the Electoral Commission may require a political party to supply to it a list of the party's current financial members within such time, being a reasonable time, as the Electoral Commission may specify.

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
- (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 to be published in the *Gazette*.

(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 falls below 500.

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 a.m. and 4.00 p.m. on any day on which the office of the Electoral Commission is open.

69. Changes to Register—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.

70. Cancellation of registration—(1) The Electoral Commission may cancel the registration of a political party at the request of one of the persons specified in section 63 (1) of this Act.

(2) The Electoral Commission shall cancel the registration of a political party on being satisfied that the number of current financial members of the party has fallen below 500.

(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*.

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.

PART V

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 penal institution 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 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; or
 - (d) Is absent from that place for any period because he or she, or his or her spouse, 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 of any person so appointed, the following provisions 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.

Cf. 1956, No. 107, s. 37; 1989, No. 31, s. 2; 1990, No. 1, s. 7

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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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 2 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.

Cf. 1956, No. 107, s. 41A; 1980, No. 29, s. 12 (1); 1981, No. 120, s. 15; 1990, No. 1, s. 8

78. Exercise of Maori option—(1) Notwithstanding section 83 (6) (b) of this Act, 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.

(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.

Cf. 1956, No. 107, s. 41b; 1981, No. 120, s. 16; 1983, No. 104, s. 5 (2); 1990, No. 1, s. 9

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.

Cf. 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, being—
 - (i) A person who, having been found by a Court or a Judge to be under disability within the meaning of Part VII of the Criminal Justice Act 1985, or having been acquitted on account of his or her insanity within the meaning of that Act, is detained as a special patient or patient pursuant to an order or direction under section 115 (1) or section 116 or

section 117 of that Act and has been so detained for a period exceeding 3 years:

(ii) A person who, having been found by a Court, on conviction of any offence, to be mentally disordered, is detained as a patient pursuant to an order under section 118 of the Criminal Justice Act 1985 and has been so detained for a period exceeding 3 years:

(iii) A person who is subject to, and has for a period exceeding 3 years been subject to, a compulsory treatment order made on an application under section 45 (3) of the Mental Health (Compulsory Assessment and Treatment) Act 1992:

(iv) A person detained under section 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, being a person to whom paragraph (d) of this subsection 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 penal institution:

(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 115 (1) or section 118 of the Criminal Justice Act 1985 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 description 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 the New Zealand Trade Development Board established by the New Zealand Trade Development Board Act 1988; 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 or the child or the child of the spouse of the person so described.

Cf. 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)

81. Detention in penal institution pursuant to conviction—(1) Where a person who has been sentenced to a full-time custodial sentence is received into a penal institution in which that person is to serve the whole or part of the sentence, the superintendent of that penal institution shall, not later than the 7th day after the day on which the inmate is received into the penal institution, 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 penal institution; 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.

Cf. 1956, No. 107, s. 42A; 1990, No. 1, s. 10

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 one month after the date on which he or she ceases to be registered as an elector by reason of the removal of his or her name from a roll under section 83 (10) or section 84 (3) of this Act; 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.

Cf. 1956, No. 107, s. 43 (1)–(3), (5)–(9); 1990, No. 1, s. 11 (1)

83. Revision of electoral rolls—(1) Subject to subsections (2) and (4) of this section, in every period specified under subsection (3) of this section, every Registrar shall direct an inquiry to be made concerning the particulars of all persons whose names are on the roll for the district.

(2) Where a roll that is not yet in force has been compiled under section 101 (1) of this Act, the inquiry directed to be made under subsection (1) of this section shall be in respect of that roll.

(3) The Minister may from time to time publish a notice in the *Gazette*, specifying a period during which the inquiries directed under subsection (1) of this section are to be undertaken, and shall, where practicable, publish such notice in every year in which a Parliament is due to expire.

(4) Where a Parliament is dissolved while an inquiry under subsection (1) of this section is in progress, the Registrar shall not be obliged to complete that inquiry.

(5) Every inquiry—

(a) Shall be in the prescribed form; and

(b) Shall require the person to whom it is addressed to sign and return the form together with any corrections to the information contained in it.

(6) Every completed form accepted by the Registrar as being in order—

(a) Shall be deemed to be an application for registration as an elector; and

(b) In the case of an elector who is a Maori, shall constitute a sufficient record of the manner in which the elector last exercised his or her option to register as an elector of a Maori electoral district or as an elector of a General electoral district.

(7) Where the Registrar receives, during a period specified under subsection (3) of this section or within 28 days before the commencement of any such period, a duly completed application for registration as an elector,—

(a) That application shall be deemed to be a completed form under this section; and

(b) The Registrar shall notify that elector that he or she will not receive a form of inquiry pursuant to subsection (5) of this section.

(8) The completed form shall contain the particulars specified in or under paragraphs (a) to (f) and (h) of section 85 (3) of this Act, and subsections (1), (2), and (4) of that section shall apply, with all necessary modifications, as if the form were an application for registration.

(9) On any occasion where the form of inquiry requires completion of the particulars specified in section 85 (3) (g) of this Act, in addition to the particulars referred to in subsection (8) of this section, the provisions of section 85 (5) of this Act shall apply with all necessary modifications.

(10) Where any person fails to respond to an inquiry under subsection (5) of this section, the Registrar shall, after making such further inquiry as he or she thinks fit, or the Chief Registrar directs, remove the name of that person from the roll.

Cf. 1956, No. 107, s. 43A (1)-(4), (5) (a), (b), (6) (a), (6A), (7), (8); 1983, No. 104, s. 5 (1); 1985, No. 149, s. 7 (1), (2); 1990, No. 1, s. 12 (1), (2)

84. Power to combine revisions of electoral rolls with exercise of Maori option—(1) Where the period specified under section 83 (3) of this Act is the same as the period specified under section 77 (2) of this Act, the Registrar shall, instead of sending the forms required to be sent under sections 78 (2) and 83 (5) of this Act, send forms in the form prescribed for the purposes of this section.

(2) Where the form prescribed for the purposes of this section is sent pursuant to subsection (1) of this section,—

- (a) That form shall, for the purposes of section 78 of this Act (other than subsection (6)), have effect as if it were the form prescribed for the purposes of that section; and
- (b) That form shall, for the purposes of section 83 of this Act (other than subsection (7)), have effect as if it were the form prescribed for the purposes of that section.

(3) Notwithstanding anything in section 78 (6) of this Act, where any person fails to respond to any inquiry under section 83 of this Act (being an inquiry in the form prescribed for the purposes of this section), the Registrar shall, after making such further inquiry as the Registrar thinks fit, or the Chief Registrar directs, remove the name of that person from the roll.

Cf. 1956, No. 107, s. 43B; 1985, No. 149, s. 8

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) Where a person making an application or declaration in respect of registration as an elector is physically disabled, the application or declaration may be signed on his or her behalf—

(a) By a donee of a power of attorney from the physically disabled person, which donee shall indicate on the application or declaration that the applicant or declarant is a physically disabled person; or

(b) By a registered elector who signs by direction of the physically disabled person and who indicates on the application or declaration—

(i) That the applicant or declarant is a physically disabled person; and

(ii) That the application or declaration is being signed by direction of the applicant or declarant.

(3) The application or declaration shall state, in respect of the person making the application or declaration,—

(a) The person's surname:

(b) The person's full given or Christian names:

(c) The place of residence in respect of which registration is claimed, which place of residence must be specified in such manner as to enable it to be clearly identified:

(d) The person's occupation (if any):

(e) The person's date of birth:

(f) The honorific (if any) by which the person wishes to be addressed:

(g) Whether the person is or is not of New Zealand Maori descent:

(h) Such other particulars (if any) as are prescribed.

(4) The Registrar may reject any application or declaration that does not comply with subsection (1) of this section or with any of the provisions of paragraphs (a), (b), (c), (e), and (h) of subsection (3) of this section.

(5) Where any applicant or declarant does not comply with subsection (3) (g) of this section, 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.

Cf. 1956, No. 107, s. 48; 1981, No. 120, s. 20 (1); 1990, No. 1, s. 17

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) Any person described in subsection (2) of this section who registers, as an elector, a person to whom subsection (1) of this section applies may also, on behalf of that person,—

(a) Sign and return the form together with any corrections to the information contained in it for the purposes of section 83 (5) of this Act:

(b) Sign and forward a statement for the purposes of section 97 (3) of this Act.

(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.

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

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.

Cf. 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 for an election in a district, then, subject to subsections (2) to (4) of this section, the Registrar shall not, at any time in the period beginning on the day after writ day and ending with the day of the return of the writ, register any application for registration as an elector that the Registrar receives after writ day.

(2) For the purposes of subsection (1) of this section, an application for registration shall be deemed to have been received on or before writ 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 on or before that 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 on or before that day.

(3) Nothing in subsection (1) of this section applies to any applicant who satisfies the Registrar that the applicant has become qualified for registration as an elector of the district in the period commencing on the 31st day before writ day and ending with the close of the day before polling day.

(4) Where any person applies for registration after a writ has been issued for an election in a district and before 4 p.m. on the day before polling day,—

- (a) The Registrar shall, if the Registrar is satisfied that that person is entitled to be registered under subsection (3) of this section, 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.

Cf. 1956, No. 107, s. 50; 1990, No. 1, s. 20 (1)

89. Notice of registration—(1) Subject to subsection (2) of this section and to section 83 (7) (b) of this Act, the Registrar shall, not later than 14 days after the registration of a person, deliver to that person personally, or send to that person by post, notice in writing of the registration of that person.

(2) Where registration of a person is effected at any time in a period specified by the Minister under section 83 (3) of this Act, subsection (1) of this section shall not apply, but the Registrar shall, not later than 6 weeks after the end of that period, deliver to that person personally, or send to that person by post, notice in writing of the registration of that person.

Cf. 1956, No. 107, s. 56; 1990, No. 1, s. 23 (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.

Cf. 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.

Cf. 1956, No. 107, s. 45

Death of Registered Elector

92. Notification of death of registered elector—Every Registrar of Births and Deaths shall forthwith after the registration of death of any person of or over the age of 17 years notify—

- (a) The Registrar of Electors for the electoral district in which the deceased person resided; and
- (b) Where the death occurred in the period beginning with the close of nomination day for an election and

ending with the close of the day before polling day for that election, the Returning Officer for the poll in the electoral district in which the deceased person resided,—

of the fact of death, together with such particulars known to the Registrar of Births and Deaths as may be required to enable the appropriate Registrar of Electors and the appropriate Returning Officer (if any) to take the appropriate steps in relation to the roll and their records.

Cf. 1956 No. 107, s. 46; 1990, No. 1, s. 14 (1)

Marriage of Registered Elector

93. Notification of marriages—(1) Where any person to whom a notice of intended marriage under the Marriage Act 1955 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,—

that person or the other party to the intended marriage shall complete the form prescribed for the purposes of this section and give it to the Registrar of Marriages for transmission to the Registrar of Electors for that district.

(2) The Registrar of Electors who receives the notice shall, after the date of the intended marriage, send by post to each of the parties to the intended marriage a notice inquiring whether, as a result of the marriage, any change is required in the name, address, and occupation under which he or she is or is to be registered on the roll.

(3) If a person to whom a notice is sent under subsection (2) of this section states that a change is required, the Registrar of Electors shall amend the roll in accordance with the particulars supplied.

(4) Where an amendment to the roll is necessary under subsection (3) of this section and the amendment does not appear on the main or supplementary roll printed for any election, the person shall, if otherwise qualified, be entitled to vote at the election in respect of his or her former name as appearing on the roll.

Cf. 1956, No. 107, s. 47; 1990, No. 1, s. 15 (1)

Change of Name of Registered Elector

94. Notification of change of name—Where any person registers a change of his or her name under section 17A of the

Births and Deaths Registration Act 1951, the Registrar-General shall complete the form prescribed for the purposes of this section and give it to the Registrar of Electors for any district in which the Registrar-General has reason to believe that the person resides.

Cf. 1956, No. 107, s. 47A; 1990, No. 1, s. 16

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 shall be made in writing to the Registrar for the district, and shall specify particulars of the objection.

(3) On receipt of any such objection, 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 the particulars specified.

(4) Unless, within 7 days after the giving of notice under subsection (3) of this section,—

(a) The person objected to; or

(b) The welfare guardian 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,—

notifies the Registrar that he or she consents to the removal from the roll of the name of the person objected to, or the objection is withdrawn, the Registrar shall refer the objection to a District Court, and shall notify the parties of the time and place appointed for the hearing.

Cf. 1956, No. 107, s. 52; 1990, No. 1, s. 21 (1)

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 the particulars specified.

(3) Unless, within 7 days after the giving of notice under subsection (2) of this section,—

(a) The person objected to; or
(b) The welfare guardian 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,—

notifies the Registrar that he or she consents to the removal from the roll of the name of the person objected to, or satisfies the Registrar that the person objected to is qualified to be registered as an elector of the district, or the objection is withdrawn, the Registrar shall refer the objection to a District Court, and shall notify the parties of the time and place appointed for the hearing.

(4) Nothing in this section affects the provisions of this Act as to the removal of names from the roll by the Registrar.

Cf. 1956, No. 107, s. 53; 1990, No. 1, s. 21 (1)

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.

Cf. 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 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 83 (5) or 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 83 (5) or 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, on an inquiry made at that person's address on the roll, cannot be found, or who, as a result of any such inquiry, the Registrar of Electors has reason to believe has ceased for one 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) An error made by or on behalf of the Chief Registrar or a Registrar has resulted in a person being registered as an elector of a district other than the district in

respect of which the person should have been registered; and

(b) The person's name has, pursuant to subsection (1) (i) of this section, been removed from the roll of the district for which the person was incorrectly registered,—
the Registrar of the district in respect of which the person should have been registered may, subject to subsection (6) of this section, place the 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.

Cf. 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)

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) (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.

Cf. 1956, No. 107, s. 57A; 1983, No. 104, s. 10 (1)

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.

Cf. 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 revision of the rolls 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 revision of the rolls 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) of this section applies shall, subject to any revision of that roll, continue 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.

Cf. 1956, No. 107, s. 60; 1980, No. 29, s. 23 (1); 1985, No. 149, s. 12; 1991, No. 68, s. 11

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.

Cf. 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) of this section applies shall, subject to any revision of that electoral roll, continue 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.

Cf. 1956, No. 107, s. 60B; 1980, No. 29, s. 23 (1); 1991, No. 68, s. 13 (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.

Cf. 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.

Cf. 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 consecutively, 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.

Cf. 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.

Cf. 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.

Cf. 1956, No. 107, s. 60c (1); 1980, No. 29, s. 24; 1983, No. 104, s. 11

109. Dormant file—(1) The Registrar shall create a dormant file showing the particulars of those persons whose names have been removed from the roll for the district as a result of the latest revision of the roll under section 83 of this Act.

- (2) The Registrar shall remove from the dormant file—
- (a) The name of any person who registers as an elector after the revision of the roll under section 83 of this Act has been completed:
- (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 of that person or by a sister or brother of that person; or
 - (iii) The administrator of the estate of that person.
- (3) Notwithstanding subsection (2) of this section, the Registrar shall keep, for the purposes of the next election to be held in the district to which the dormant file relates, a copy of the dormant file as first created.
- (4) Where more than one revision of the roll takes place under section 83 of this Act between 2 successive elections in a district, the Registrar shall keep, for the purposes of the later of those 2 elections, copies of each of the dormant files as first created.
- (5) The Registrar shall from time to time cause to be printed a computer-compiled list showing the names and other

particulars of the persons whose particulars are held in any dormant file.

(6) Copies of each computer-compiled list printed pursuant to subsection (5) of this section shall be kept by the Registrar for the purposes of the next election to be held in the district to which the file relates.

(7) Each dormant file and each computer-compiled list printed pursuant to subsection (5) of this section may be used for the purpose of determining whether any person is qualified, under section 60 (c) or (d) of this Act, to vote at any election held in the district to which the file or list relates.

Cf. 1956, No. 107, ss. 65A-65AC; 1985, No. 150, s. 4 (1)

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 a.m. and 4 p.m. 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.

Cf. 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, ss. 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.

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

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), and meshblock.

(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 pursuant to a request under subsection (1) of this section may be supplied in the form of a computer-compiled list or in the form of information recorded on a computer tape, disk, or diskette.

(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) Where the person requesting the list requires the list to be supplied on a computer tape or on a disk or diskette, that person supplies to the Chief Registrar a

computer tape, disk, or diskette that complies with the prescribed requirements.

Cf. 1956, No. 107, s. 64BA; 1990, No. 1, s. 28 (1)

113. Supply of computer-compiled lists and computer tapes to local authorities—(1) Subject to this section, where any local authority (as defined in section 2 of the Local Government Act 1974) wishes to obtain a computer-compiled list or computer tape, disk, or diskette containing specified information for the purposes of any election, by-election, or poll that is required by or under any Act, the principal administrative officer of the local authority shall be entitled to obtain from the Chief Registrar a computer-compiled list or computer tape, disks, or diskettes 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 computer tape, disk, or diskette supplied by the Chief Registrar shall be returned to the Chief Registrar forthwith 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) Where a principal administrative officer requires specified information for any purpose other than a purpose specified in subsection (1) of this section, and the latest information already available to the principal administrative officer is not suitable for the purpose, the principal administrative officer shall make a special request to the Chief Registrar for the information, which shall be supplied subject to, and in accordance with, any regulations made pursuant to section 267 of this Act.

(7) Where any specified information is requested from the Chief Registrar during the period when a roll revision is being conducted under section 83 of this Act, the Chief Registrar shall be obliged to supply only such specified information as was available before the roll revision commenced.

(8) Regulations made under section 267 of this Act may prescribe fees for the supply of computer tapes, disks, or

diskettes by the Chief Registrar in any case, and fees that shall be payable for the provision under this section of a computer-compiled list or for the provision under this section of information on a computer tape, disk, or diskette in any case to which subsection (1) of this section does not apply.

(9) Where any officer of a local authority (as defined in section 2 of the Local Elections and Polls Act 1976) acting on behalf of a local authority (as so defined) wishes to obtain, for the purposes of compiling a roll of electors for a local authority (as so defined) 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 computer tape, disk, or diskette containing that 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-election, or poll, so much of the following information as is requested by the principal administrative officer:

- (a) The elector's name, including first names and surnames;
- (b) The elector's residential address and postal address (if different);
- (c) The elector's occupation (if any);
- (d) Statistical meshblock details;
- (e) 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.

Cf. 1956, No. 107, s. 64A; 1989, No. 31, s. 4 (1); 1990, No. 1, s. 27

114. Supply of computer tapes and computer-compiled lists to candidates and political parties—(1) A computer tape, disk, or diskette may have recorded on it by the Chief Registrar, the names, residential addresses, occupations (if any), preferred honorifics (if any), meshblock, and postal addresses of—

- (a) The electors of an electoral district; or
- (b) If the person to whom the information is being supplied is one described in subsection (6) (b) of this section, the

electors of a local authority district or subdivision of a local authority district.

(2) Where information recorded under subsection (1) of this section is supplied under this section to any person, the Chief Registrar may, if the person to whom that information is to be supplied under this section so requests, record on the computer tape, disk, or diskette, in addition to the information described in subsection (1) of this section,—

- (a) Whether an elector is of Maori descent; or
- (b) A list of electors in a particular age group; or
- (c) Both.

(3) Any person to whom subsection (6) of this section applies may obtain—

- (a) A copy of a computer-compiled list containing the names, residences, and occupations (if any) of the persons whose names are on the dormant file for an electoral district; or
- (b) A computer tape, disk, or diskette containing the names, residences, and occupations (if any) of the persons whose names are on the dormant file for an electoral district.

(4) A tape, disk, diskette, or computer-compiled list with information recorded on it under subsection (1) or subsection (2) or subsection (3) of this section may be supplied to the persons described in subsection (6) of this section, and to no other persons.

(5) The Chief Registrar shall supply the information described in subsections (1) to (3) of this section if—

- (a) In a case where the information is sought on a tape, disk, or diskette, the person seeking the information supplies the Chief Registrar with a computer tape, disk, or diskette that complies with the prescribed requirements; and
- (b) The person seeking the information pays the prescribed fee; and
- (c) The person seeking the information states on a form to be provided by the Chief Registrar 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; and
- (d) The request for the information is otherwise in accordance with regulations made under this Act.

(6) The information supplied pursuant to any provision of subsections (1) to (3) of this section shall be supplied to the following persons and to no other persons:

- (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.
 - (7) Regulations made under section 267 of this Act may—
 - (a) Prescribe requirements in respect of computer tapes, disks, or diskettes supplied to the Chief Registrar under this Act:
 - (b) Prescribe fees, or a scale of fees, for the supply of computer-compiled lists, computer tapes, disks, or diskettes by the Chief Registrar to any person under subsection (6) of this section.
 - (8) For the purposes of this section and section 112 (1) (a) of this Act,—
 - “Age group” means, in relation to electors, those whose birthdays 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.
- Cf. 1956, No. 107, s. 64B, 65AE; 1985, No. 150, s. 4 (1); 1990, No. 1, ss. 28 (1), 30

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 non-molestation order that is in force 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.

Cf. 1956, No. 107, s. 62A; 1980, No. 29, s. 27

Offences

116. Offences relating to use of electoral information—

(1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information derived from a computer tape, disk, or diskette supplied pursuant to section 112 or section 113 or section 114 of this Act 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.

Cf. 1956, No. 107, s. 64BB; 1990, No. 1, s. 28 (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.

Cf. 1956, No. 107, s. 64BC; 1990, No. 1, s. 28 (1)

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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 1956, No. 107, s. 51; 1980, No. 29, s. 5 (7)

123. Copies of rolls for Returning Officer—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.

Cf. 1956, No. 107, s. 65; 1983, No. 104, s. 14 (1); 1990, No. 1, s. 29

124. Power to destroy records—(1) Where—

- (a) The Registrar considers that records held by the Registrar, being—
 - (i) Applications for registration as electors; or
 - (ii) Forms completed under section 83 of this Act; or
 - (iii) Records forming part of the dormant file kept under section 109 (1) of this Act,—are no longer required; and
- (b) Two general elections have taken place,—
 - (i) In the case of records to which subparagraph (i) or subparagraph (ii) of paragraph (a) of this subsection applies, since those records were made; or
 - (ii) In the case of records to which subparagraph (iii) of paragraph (a) of this subsection applies, since the completion of the roll revision exercise under section 83 of this Act from which those records were derived,—

the Registrar may, subject to subsection (2) of this section, destroy those records.

(2) 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.

Cf. 1956, No. 107, s. 65B (1), (3); 1981, No. 120, s. 26

PART VI
ELECTIONS
General Elections

125. Governor-General's warrant for issue of writs—For every general election the Governor-General shall, not later than 7 days after the day of the dissolution or expiration of the then last Parliament, as the case may be, by warrant under his or her hand in form 2, direct the Clerk of the Writs to proceed forthwith to issue writs for the election of those members of Parliament who represent all electoral districts within New Zealand.

Cf. 1956, No. 107, s. 70

126. Writs for general election—On the receipt of the Governor-General's warrant the Clerk of the Writs shall within 3 days issue a writ in form 3 to the Returning Officer for each electoral district.

Cf. 1956, No. 107, s. 71

127. Election of list candidates—(1) At any general election any Secretary of a political party that is registered under Part IV 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 shall be lodged with or given to the Chief Electoral Officer not later than noon on the date specified in the writs for the election of constituency candidates as the latest date for the nomination of constituency candidates.

(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, a copy of the person's consent to the inclusion of his or her name on that list.

(5) Every form of consent submitted under this section shall be in form 5 and may be given in writing or by facsimile transmission.

(6) The Chief Electoral Officer shall give a receipt in writing for every list accepted by the Chief Electoral Officer.

128. Acceptance or rejection of lists by Chief Electoral Officer—(1) The Chief Electoral Officer shall reject every list submitted under section 127 of this Act that—

- (a) Is not submitted by a political party registered under Part IV of this Act; or
- (b) Is not lodged with the Chief Electoral Officer not later than noon on nomination day; or
- (c) Does not contain the name of at least one candidate.

(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.

*By-Elections for Vacancies in Seats of Members Representing
Electoral Districts*

129. By-elections for members representing electoral districts—(1) Where—

- (a) Parliament is not in session; or
- (b) The House of Representatives is adjourned and is not due to meet again for more than 14 days,—

and it appears to the Speaker that the seat of any member elected to represent an electoral district has become vacant, the Speaker shall forthwith cause a notice of the vacancy and of the cause thereof to be published in the *Gazette*.

(2) Where the vacancy arises from death or resignation, the Speaker shall, forthwith upon the publication of the notice in the *Gazette*, by warrant under his or her hand in form 6, direct the Clerk of the Writs to proceed forthwith to issue a writ to supply the vacancy.

(3) Where the vacancy arises from any cause other than death or resignation, then, as soon as conveniently may be after the expiration of 10 days from the date of the publication of the notice in the *Gazette*, the Speaker, on its being established to

his or her satisfaction that a vacancy does exist, shall, by warrant under his or her hand in form 6, direct the Clerk of the Writs to proceed forthwith to issue a writ to supply the vacancy.

(4) Where a vacancy in the seat of any member of Parliament elected to represent an electoral district exists at the commencement of any session and no writ has been issued to supply the vacancy, or where a vacancy occurs during a session, the Speaker shall forthwith upon being ordered to do so by the House, by warrant under his or her hand in form 6, direct the Clerk of the Writs to proceed forthwith to issue a writ to supply the vacancy.

(5) Nothing in subsections (1) to (4) of this section applies in respect of any vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

Cf. 1956, No. 107, s. 72; 1986, No. 116, s. 4

130. When Governor-General to act for Speaker—Where a vacancy in the seat of any member of Parliament elected to represent an electoral district 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 129 of this Act.

Cf. 1956, No. 107, s. 73

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.

Cf. 1956, No. 107, s. 73A; 1990, No. 1, s. 35

132. Writ for by-election—(1) Subject to subsection (2) of this section, the Clerk of the Writs shall, as soon as reasonably practicable after receiving a warrant, but in any case not later than 21 days after the date of the receipt of the warrant, issue a writ in form 3 to the Returning Officer for the district in which the vacancy has occurred.

(2) 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 Clerk of the Writs to postpone the issue of a writ until such day as may be specified in the Order in Council, not being later than 42 days after the date of the receipt of the warrant.

Cf. 1956, No. 107, s. 74

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.

Cf. 1956, No. 107, s. 75

Filling of Vacancies in Other Seats

134. Speaker's warrant for supply of vacancy—(1) Where—

(a) Parliament is not in session; or

(b) The House of Representatives is adjourned and is not due to meet again for more than 14 days,—

and it appears to the Speaker that the seat of any member elected as a consequence of inclusion of the member's name on a list submitted pursuant to section 127 of this Act has become vacant, the Speaker shall, subject to subsection (2) of this section, forthwith cause a notice of the vacancy and of the cause thereof to be published in the *Gazette*, and by warrant under his or her hand in form 7, direct the Chief Electoral Officer to proceed forthwith to supply the vacancy.

(2) Where the vacancy in the seat of any member elected as a consequence of inclusion of the member's name on a list

submitted pursuant to section 127 of this Act, arises other than through death or resignation, the Speaker shall, as soon as conveniently may be after the expiration of 10 days from the date of the publication of the notice in the *Gazette*, establish to his or her satisfaction, whether or not the vacancy exists, and, if satisfied that the vacancy exists, shall then, by warrant under his or her hand in form 7, direct the Chief Electoral Officer to proceed forthwith to supply the vacancy.

(3) Where a vacancy exists at the commencement of any session and no direction to supply the vacancy has been issued, or where a vacancy occurs during a session, the Speaker shall forthwith upon being ordered to do so by the House, by warrant under his or her hand in form 7, direct the Chief Electoral Officer to proceed forthwith to supply the vacancy.

(4) Nothing in subsections (1) to (3) of this section applies in respect of any vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

Cf. 1956, No. 107, s. 72; 1986, No. 116, s. 4

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.

Cf. 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.

Cf. 1956, No. 107, s. 73A; 1990, No. 1, s. 35

137. Method of supplying vacancy—(1) On receipt of any direction under section 134 or section 135 of this Act, 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 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.

(4) If that person has died or does not signify his or her willingness to be a member of Parliament, the Chief Electoral Officer shall proceed to make that inquiry 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 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.

(5) 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.

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 Writs

139. Contents of writ—(1) In every writ for the election of a member of Parliament for an electoral district 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) In the case of a general election the same polling day shall be appointed in each writ.

(4) The latest day for the return of the writ (other than a writ issued under section 153 (8) of this Act) shall be the 50th day after its issue.

(5) The latest day for the return of a writ issued under section 153 (8) of this Act shall be the 78th day after its issue.

Cf. 1956, No. 107, s. 76; 1975, No. 28, s. 30; 1985, No. 149, s. 18

140. Clerk of Writs to notify Registrar—The Clerk of the Writs shall forthwith on signing a writ for an election to be held in any district cause a notice of the issue of the writ to be sent to the Registrar for the district.

Cf. 1956, No. 107, s. 77; 1990, No. 1, s. 36 (1)

141. Notice to Returning Officer—(1) The Clerk of the Writs may, on signing a writ for an election to be held in any district, cause a notice to be sent to the Returning Officer for the district informing the Returning Officer of the issue of the writ and of the nomination day and of the polling day.

(2) If the Returning Officer is unable for any reason to receive the notice, the Returning Officer shall appoint a person to receive the notice on the Returning Officer's behalf.

(3) The receipt by the Returning Officer, or by the person appointed by the Returning Officer under subsection (2) of this section, of the notice shall be deemed to be the receipt by the Returning Officer of the writ, and the date of that receipt shall be endorsed on the writ.

Cf. 1956, No. 107, s. 78; 1990, No. 1, s. 37 (1)

142. Returning Officer to give public notice of nomination day and polling day—Every Returning Officer shall forthwith on the receipt of a writ give public notice of the nomination day and of the polling day in form 8.

Cf. 1956, No. 107, s. 79

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 candidate for election for any electoral district (hereinafter referred to as a constituency candidate), by not less than 2 registered electors of that district, by a nomination paper in form 9.

(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.

(4) Every nomination paper and every consent 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.

Cf. 1956, No. 107, s. 80 (1)–(6); 1990, No. 1, s. 38

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) If the total number of votes received by any unsuccessful constituency candidate is less than 5 percent of the total number of votes received by constituency candidates in the district, the deposit of the unsuccessful candidate shall be forfeited and paid into the Crown Bank Account, but in every other case the deposit shall be returned to the person who paid it.

Cf. 1956, No. 107, s. 81; 1990, No. 1, s. 39 (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 17 of the Births and Deaths Registration Act 1951; 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 17A of the Births and Deaths Registration Act 1951 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) Notwithstanding anything in subsection (2) of this section, in applying that subsection in the case of any female constituency candidate who is or has been married, her husband's surname may be substituted for her surname in any of the cases specified in paragraphs (a) to (d) of that subsection, unless, if her husband were nominated as a constituency candidate under that surname, the Returning Officer would be required to reject his nomination under the provisions of that subsection.

(4) Notwithstanding anything in subsection (2) of this section, in applying that subsection in the case of any male constituency candidate who is or has been married, his wife's surname may be substituted for his surname in any of the cases specified in paragraphs (a) to (d) of that subsection, unless, if his wife were nominated as a constituency candidate under that surname, the Returning Officer would be required to reject her nomination under the provisions of that subsection.

(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.

Cf. 1956, No. 107, s. 82; 1983, No. 104, s. 16 (1)

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.

Cf. 1956, No. 107, s. 83

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 the names of the constituency candidates nominated who have not withdrawn their nominations and the party affiliations (if any) of those candidates.

(2) In each district in which a poll is required to be taken the Returning Officer shall, subject to subsection (5) of this section, advertise the names of the several constituency candidates, and their party affiliations (if any), together with the names of those political parties which have submitted a list in accordance with section 127 of this Act, in at least one newspaper circulating in the district in such manner as the Returning Officer considers most likely to give full publicity thereto, and shall similarly advertise the polling places for the district not later than the day before polling day.

(3) The polling places that have suitable access for persons who are physically disabled shall be indicated in the advertisement.

(4) The Chief Electoral Officer shall forthwith notify to every Returning Officer the names of the constituency candidates nominated in each district who have not withdrawn their nomination in each district in which a poll is required to be taken and the party affiliations (if any) of those candidates, together with the names of those political parties which have submitted lists in accordance with section 127 of this Act and the names of the candidates on those lists.

(5) The Returning Officer shall not be obliged to comply with subsection (2) of this section if the information required by that subsection to be published has been published in the district in accordance with that subsection and subsection (3) of this section, together with the name and address of the Returning Officer, by the Chief Electoral Officer.

Cf. 1956, No. 107, s. 84; 1981, No. 120, s. 27 (1); 1985, No. 149, s. 21

Uncontested Elections

148. Procedure where election not contested—(1) If only one constituency candidate is nominated, or if any constituency candidate who has been nominated duly withdraws his or her nomination and there remains only one constituency candidate, the Returning Officer shall, by public notice on or before polling day, declare that constituency candidate to be duly elected.

(2) The name of the person so elected shall be endorsed on the writ by the Returning Officer, and the writ shall be returned by the Returning Officer to the Clerk of the Writs forthwith.

Cf. 1956, No. 107, s. 85

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.

Cf. 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 have 2 parts, Part A and Part B.

(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, Part A of the ballot paper shall not be printed and the ballot paper shall thereafter be treated as if it comprised only Part B.

(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, Part A of every ballot paper 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 Part A of the ballot paper—

(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) No constituency candidate who seeks election (other than 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 and has not 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 Part B of the ballot paper 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 shown on Part B of the ballot paper pursuant to subsection (9) of this section shall be arranged in alphabetical order.

(11) Subject to subsection (6) (e) 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 Part A of every ballot paper, a circle shall be shown on the ballot paper to the right of each candidate's name.

(13) On Part B of every ballot paper, a circle shall be shown on the ballot paper to the right of the name of each political party.

(14) Every ballot paper shall have a counterfoil in form 13.

(15) There shall also be printed on each Part of every ballot paper, and in the spaces provided in the counterfoil attached thereto, a number (called a consecutive number) beginning with the number one 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 (other than pieces of ballot papers comprising 2 parts of the one ballot paper) 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 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 (13) 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.

Cf. 1956, No. 107, s. 87; 1990, No. 1, s. 40 (1)

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.

Cf. 1956, No. 107, s. 87A; 1990, No. 1, s. 40 (1)

Death of Candidate

152. Death before close of nominations—(1) Where a constituency candidate, who has been nominated and who has not withdrawn his or her nomination, dies before the close of nominations, his or her nomination shall be treated in all respects as if it had not been made, and his or her deposit shall be returned to his or her personal representatives or, as the case may be, to the person who paid it.

(2) Where, in any such case, the candidate dies on nomination day or on the day before nomination day, the time for the close of nominations in that district shall be deemed to be postponed by 4 days.

Cf. 1956, No. 107, s. 88; 1975, No. 28, s. 34

153. Death after close of nominations—(1) If—

- (a) Any constituency candidate dies after the close of nominations and before the close of the poll; or
- (b) The successful constituency candidate dies after the close of the poll and before the declaration of the result; or
- (c) Any candidate whose name is included on a list submitted under section 127 of this Act dies after the submission of the list and before the declaration required by section 193 (5) of this Act,—

the provisions of this section shall apply.

(2) If the candidate who dies is one whose name is included on a list submitted under section 127 of this Act,—

- (a) The poll shall proceed; and
- (b) The list shall be treated subsequently as if the candidate's name had never been included on that list.

(3) Where a constituency candidate dies before polling day, the Returning Officer shall, upon being satisfied of the fact of death,—

(a) Either—

- (i) Issue a notice countermanding that part of the poll that relates to Part A of the ballot paper; or

- (ii) Where the poll is to be conducted as a consequence of a by-election, countermand the notice of the poll; and
 - (b) Report the death to the Chief Electoral Officer; and
 - (c) Either—
 - (i) Endorse on the writ the fact of the death, the date of the proof thereof, and the date of the issue of the notice countermanding that part of the poll that relates to Part A of the ballot paper; or
 - (ii) Where the poll is to be conducted as a consequence of a by-election, endorse on the writ the fact of the death, the date of the proof thereof, and the date of the countermand of the notice of the poll; and
 - (d) Return the writ so endorsed to the Clerk of the Writs; and
 - (e) Except where the poll was to be conducted as a consequence of a by-election, proceed to conduct the poll on Part B of the ballot paper, which shall be treated for these purposes as if it were the only part of the ballot paper, and this Part of this Act shall apply with any necessary modifications.
- (4) Where a constituency candidate dies on polling day before the close of the poll, the Returning Officer shall, upon being satisfied of the fact of the death,—
- (a) Either—
 - (i) Immediately close that part of the poll which relates to Part A of the ballot paper and declare that part of the poll to be of no effect; or
 - (ii) Where the poll is being conducted as a consequence of a by-election, close the poll and declare it to be of no effect; and
 - (b) Report the death to the Chief Electoral Officer; and
 - (c) Endorse on the writ the fact of the death and the time of the close of the poll; and
 - (d) Return the writ so endorsed to the Clerk of the Writs; and
 - (e) Except where the poll was to be conducted as a consequence of a by-election, proceed to conduct the poll on Part B of the ballot paper, which shall be treated for these purposes as if it were the only part of the ballot paper, and this Part of this Act shall apply with any necessary modifications.
- (5) Where a constituency candidate dies after the close of the poll and before the declaration of the result of the poll, and it is found on the completion of the count of votes or on a recount that the candidate, if still living, would have been elected, the

Returning Officer shall, upon being satisfied of the fact of the death,—

- (a) Report the death to the Chief Electoral Officer; and
- (b) Endorse on the writ the fact of the death and that the candidate, if still living, would have been elected; and
- (c) Return the writ so endorsed to the Clerk of the Writs.

(6) The provisions of this Act as to an equality of votes between constituency candidates shall apply notwithstanding the death of one of those candidates after the close of the poll.

(7) Where the poll is interrupted in consequence of the death of a constituency candidate, all pieces of the ballot paper comprising Part A or, in the case of a by-election, all ballot papers, which have been placed in the several ballot boxes shall be taken out by the several Deputy Returning Officers and, being made up into secured packages, shall be sent unopened to the Returning Officer, who shall forthwith destroy them in the presence of a District Court Judge or a Justice of the Peace.

(8) Upon the return to the Clerk of the Writs of a writ which has been vacated in whole or in part as aforesaid, a fresh writ shall be issued forthwith for a new election and, except as otherwise provided, all proceedings in connection with the new election shall be had and taken anew as if it were a by-election.

(9) The main roll and supplementary rolls which were to be used at the election which has failed shall be used at the new election without any amendment or addition.

(10) It shall not be necessary to nominate afresh any candidate who, at the time of the countermand or close of the poll, was a duly nominated candidate.

(11) Notwithstanding subsection (10) of this section, any candidate to whom that subsection applies may withdraw his or her nomination before the time appointed for the close of nominations for the new election.

(12) All appointments of polling places made in respect of the election that has failed shall continue in respect of the new election.

Cf. 1956, No. 107, s. 89 (1), (2), (3)–(11)

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.

Cf. 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 Governor-General 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.

(4) At least 6 polling places within the limits of each district shall have access that is suitable for persons who are physically disabled.

(5) Public notice of every appointment, revocation, alteration, or addition under this section shall be given in the *Gazette*.

Cf. 1956, No. 107, s. 91; 1990, No. 1, s. 43 (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 p.m. 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.

Cf. 1956, No. 107, s. 91A; 1990, No. 1, s. 43 (1)

157. Polling booths, ballot boxes, ballot papers, etc.—

(1) The Returning Officer shall provide the following things for taking the poll:

- (a) One or more rooms for polling booths at each polling place, and in each booth one or more inner compartments, separated from but opening into the booth and having no other opening:
- (b) In each inner compartment, suitable facilities for the marking of ballot papers:
- (c) In each booth, one or more ballot boxes:
- (d) In each booth, one or more copies of the main roll and supplementary rolls for the district, and a sufficient number of voting papers.

(2) The Returning Officer shall provide—

- (a) Each polling place in respect of a General electoral district with a copy of the roll for the Maori electoral district in which the polling place is situated; and
- (b) Each polling place in respect of a Maori electoral district with a copy of the roll for the General electoral district in which the polling place is situated.

(3) The Returning Officer shall ensure that there is displayed prominently in every polling booth the lists of candidates to be elected from lists submitted under section 127 of this Act, each of which lists of candidates shall show the names of the candidates in the political party's order of preference.

Cf. 1956, No. 107, s. 92; 1990, No. 1, s. 44 (1)

158. Deputy Returning Officers, poll clerks, ushers, and interpreters—(1) The Returning Officer—

(a) Shall appoint for each polling booth a Deputy Returning Officer to conduct the poll at that booth; and

(b) May appoint such additional Deputy Returning Officers and such poll clerks, ushers, and interpreters as the Returning Officer considers necessary.

(2) The Returning Officer may exercise in person all the powers, duties, and functions of a Deputy Returning Officer in respect of any polling booth or polling booths.

(3) Any Returning Officer or Deputy Returning Officer may at any time on polling day appoint in writing a substitute to act for him or her in respect of that election in case of his or her absence from duty.

(4) If the Deputy Returning Officer fails to open the polling at any booth, or if he or she is absent from duty and has not appointed a substitute, the poll clerk at the booth may act for the Deputy Returning Officer and in that event shall be deemed to be his or her substitute.

(5) Every substitute while acting for any Returning Officer or Deputy Returning Officer shall have all the powers, duties, and functions of that Returning Officer or Deputy Returning Officer.

(6) Nothing in the State Sector Act 1988 shall apply to any person appointed under this section, or to any substitute acting under this section.

(7) Regulations made under section 267 of this Act may prescribe procedures governing the use of interpreters.

(8) Where the Returning Officer appoints interpreters, he or she shall, at the request of any candidate, supply to that candidate the names of those interpreters.

Cf. 1956, No. 107, s. 93; 1981, No. 120, s. 30; 1990, No. 1, s. 45

159. Deputy Returning Officers, poll clerks, ushers, and interpreters to make declaration—Every Deputy Returning Officer and poll clerk and usher and interpreter shall before the poll, and every substitute for a Deputy Returning Officer shall before acting, make a declaration in form 1 before the Returning Officer, or a Justice of the Peace, or a solicitor, or another Deputy Returning Officer.

Cf. 1956, No. 107, s. 94; 1990, No. 1, s. 46

160. Scrutineers—(1) Each constituency candidate may, by writing under his or her hand, appoint one or more scrutineers for each polling booth at any election.

(2) Every scrutineer shall, before being allowed to act, make a declaration in form 1 before the Returning Officer or the Deputy Returning Officer or a Justice of the Peace or a solicitor.

(3) Where a candidate appoints more than one scrutineer for any polling booth, not more than one scrutineer for that candidate shall be present in the polling booth at any time.

(4) Any scrutineer may at any time during the hours of polling leave and re-enter the polling booth for which he or she is appointed.

(5) Nothing in this Act shall render it unlawful for a scrutineer to communicate to any person information as to the names of persons who have voted.

(6) No candidate shall act as a scrutineer under this section.

Cf. 1956, No. 107, s. 95; 1971, No. 67, s. 5; 1975, No. 28, s. 36; 1990, No. 1, s. 47

161. Hours of polling—(1) The poll at every election shall commence at 9 a.m. on polling day, and, except as otherwise provided in this Act, shall finally close at 7 p.m. on the same day.

(2) Every elector who at the close of the poll is present in a booth 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.

Cf. 1956, No. 107, s. 96

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” and “worker” have the same meaning as in the Holidays Act 1981:

“Master”, in relation to any ship, includes any person (except a pilot) having command or charge of the ship.

(6) This section shall bind the Crown.

Cf. 1956, No. 107, s. 98; 1990, No. 1, s. 48 (1)

Voting

163. Ballot box to remain closed during poll—(1) The Deputy Returning Officer 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 Deputy Returning Officer, 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 Deputy Returning Officer 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.

Cf. 1956, No. 107, s. 101; 1990, No. 1, s. 51

164. Persons not to remain in polling places—No person not actually engaged in voting shall be allowed to remain in a polling place except—

- (a) The Returning Officer; or
- (b) Deputy Returning Officers; or
- (c) Poll clerks; or
- (d) Ushers; or
- (e) Scrutineers; or
- (f) Interpreters; or
- (g) Any other person with the permission of the Returning Officer or Deputy Returning Officer.

Cf. 1956, No. 107, s. 102; 1990, No. 1, s. 52

165. Voters not to be communicated with in booth—

(1) No scrutineer or other official or unofficial person shall communicate with any voter in a polling booth either before or after the voter has given his or her vote, except only the Deputy Returning Officer or poll clerk (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 the booth by order of the Deputy Returning Officer.

Cf. 1956, No. 107, s. 103; 1990, No. 1, s. 53 (1)

166. Questions may be put to voters—(1) The Deputy Returning 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 Deputy Returning 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 Deputy Returning Officer may put to that person under this section shall be liable on summary conviction to a fine not exceeding \$1,000.

Cf. 1956, No. 107, s. 104; 1990, No. 1, s. 54 (1)

167. Issue of ballot papers—(1) Every Deputy Returning Officer or a poll clerk authorised by the Deputy Returning Officer to issue ordinary ballot papers shall, in accordance with the provisions of this section, issue ballot papers to all electors who apply to vote at the booth in respect of which the Deputy Returning Officer is appointed.

(2) The elector shall state his or her name to the Deputy Returning Officer or poll clerk and shall give such particulars as may be necessary to identify the entry in the printed rolls relating to the elector.

(3) If the name of the elector appears in the rolls, a line shall be drawn through the elector's name and number.

(4) Subject to subsection (5) of this section, if the name of the elector appears in the rolls, the Deputy Returning Officer or a poll clerk authorised by the Deputy Returning Officer to issue ordinary voting papers shall then issue to the elector a ballot paper after the Deputy Returning Officer or poll clerk has prepared it in the following manner:

(a) Unless a consecutive number has been printed on the ballot paper and on the counterfoil, or, if the ballot paper is intended to be divided into 2 or more pieces, on each such piece and on the counterfoil, the Deputy Returning Officer or poll clerk shall enter on both the counterfoil and the ballot paper, or on both the

counterfoil and on each such piece of the ballot paper, as the case may require, in the spaces provided a number (called a consecutive number), beginning with the number one in the case of the first ballot paper issued by or on behalf of the Deputy Returning Officer, and on all succeeding ballot papers issued by or on behalf of the Deputy Returning Officer the numbers shall be consecutive, so that no two ballot papers issued in the same booth (other than pieces of ballot papers resulting from the division of one ballot paper) shall bear the same number:

- (b) The Deputy Returning Officer or poll clerk shall firmly fix a piece of gummed paper over the consecutive number on the ballot paper so as to conceal it effectively in each place where it appears:
- (c) On the counterfoil of the ballot paper the Deputy Returning Officer or poll clerk shall write his or her initials, and the number appearing in the roll against the name of the elector preceded by the number of the page on which that name appears:
- (d) The Deputy Returning Officer or poll clerk shall place the official mark of the Deputy Returning Officer on the ballot paper, or, where the ballot paper is intended to be divided into 2 or more pieces, on each such piece, so that the booth in which the ballot paper or the piece of the ballot paper was issued may be identified.

(5) Where the ballot paper is intended to be divided into 2 pieces, the Deputy Returning Officer or poll clerk shall divide the ballot paper into those pieces before issuing it to the elector.

(6) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 who, being a Deputy Returning Officer or a poll clerk, fails faithfully to perform the duty imposed on that person by this section, by reason whereof any of the requirements of this section are not effectively fulfilled:

Provided that, so far as the failure relates to the duty of fixing a piece of gummed paper over the consecutive number so as to conceal it effectively, it shall be a sufficient defence if the person satisfies the Court that he or she took all reasonable precautions to secure the same.

Cf. 1956, No. 107, s. 105; 1990, No. 1, s. 55 (1)

168. Method of voting—(1) The voter, having received a ballot paper divided into two pieces,—

(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 Part A of the ballot paper with a tick within the circle immediately after the name of the constituency candidate for whom the voter wishes to vote; and

(ii) By marking Part B of the ballot paper with a tick within the circle immediately after the name of the party for which the voter wishes to vote.

(2) Where a ballot paper is or is intended to be divided into two or more pieces, the voter shall, before leaving the inner compartment, fold each piece so that the contents cannot be seen, and then place each piece in the ballot box designated for that purpose.

(3) In any case where a ballot paper is not intended to be divided into two pieces, the provisions of subsections (4) and (5) of this section shall apply instead of subsections (1) and (2) of this section.

(4) 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 ballot paper with a tick within the circle immediately after the name of the constituency candidate for whom the voter wishes to vote; or

(ii) By marking the ballot paper with a tick within the circle immediately after the name of the party for which the voter wishes to vote.

(5) 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.

(6) Nothing in this section limits the provisions of section 178 (5) (a) (ii) of this Act.

Cf. 1956, No. 107, s. 106; 1990, No. 1, s. 56

169. Spoilt ballot papers—(1) Any voter who, not having deposited any part of his or her ballot paper, or as the case may require his or her ballot paper, in the ballot box, satisfies the Deputy Returning Officer that the voter has spoilt it by inadvertence may be supplied with a fresh ballot paper, but

only after the spoilt one and every part thereof has been returned to the Deputy Returning Officer.

(2) The Deputy Returning Officer shall—

- (a) Cancel every such spoilt ballot paper or part thereof 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 or part thereof is inadvertently spoilt by the Deputy Returning Officer or any other official, cancel it and any other part of that ballot paper 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 or parts thereof in his or her possession until the close of the poll.

Cf. 1956, No. 107, s. 107

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 Deputy Returning 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 Deputy Returning Officer, or may be marked by the person nominated or, as the case may be, by the Deputy Returning 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 imprisonment for a term not exceeding

3 months, 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.

Cf. 1956, No. 107, s. 108 (1), (2), (4)-(7); 1981, No. 120, s. 33 (1)

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 and any piece thereof of any such person shall not be deposited in the ballot box or allowed by the Deputy Returning Officer, but shall be set aside for separate custody.

Cf. 1956, No. 107, s. 109

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.

(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 the Deputy 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.

Cf. 1956, No. 107, s. 110; 1981, No. 120, s. 34; 1990, No. 1, s. 57

173. Voting by special voters on Tokelau, Campbell Island, Raoul Island, and in Ross Dependency—(1) The Chief Electoral Officer shall appoint Deputy Returning Officers for the issuing of ballot papers to special voters on Tokelau, Campbell Island, and Raoul Island, and in the Ross Dependency (in this section called "Special Deputy Returning Officers").

(2) No Special Deputy Returning Officer shall be a person in charge of a base at which special voters are living.

(3) A Special Deputy Returning Officer may, with the consent of the special voter and in accordance with regulations made under this Act,—

(a) Inspect the special voter's—

- (i) Marked ballot paper and any piece thereof; and
- (ii) Completed declaration; and

(b) Dictate the contents of—

- (i) The ballot paper and any piece thereof; and
- (ii) Declaration—

to the Chief Electoral Officer or to a person authorised by the Chief Electoral Officer in that behalf.

(4) The Chief Electoral Officer or the person authorised by the Chief Electoral Officer in that behalf shall mark a ballot paper and any piece thereof, and complete a declaration in accordance with the dictation of the Special Deputy Returning Officer so as to provide a true and faithful copy of the special

voter's ballot paper and every piece thereof and of the special voter's declaration.

(5) Any copy of a declaration or ballot paper or piece thereof, made pursuant to subsection (4) of this section shall, unless it is proved not to be a true and faithful copy of the declaration or ballot paper or piece thereof, have effect as if it were the original declaration and the original ballot paper or piece thereof.

(6) Regulations made under section 267 of this Act may make provision for the transmission of the original ballot papers and pieces thereof, and declarations and any related lists from the Special Deputy Returning Officer to the Chief Electoral Officer and from the Chief Electoral Officer to the Clerk of the House of Representatives.

Cf. 1956, No. 107, s. 110A; 1985, No. 149, s. 23 (1)

Preliminary Count of Votes

174. Procedure after close of poll—(1) At each polling booth the Deputy Returning Officer shall, as soon as practicable after the close of the poll, in the presence of such of the scrutineers (including those lawfully in the polling booth under any other Act) as choose to be present, and the polling clerks, but of no other person, perform the following duties:

(a) He or she shall make up into separate parcels—

(i) The certified copies of the main roll and supplementary rolls on which the fact of any person having received a ballot paper, or any piece thereof, has been noted; and

(ii) All the counterfoils of ballot papers that have been issued to voters and all the unused ballot papers; and

(iii) All the spoilt ballot papers:

(b) He or she shall then open the ballot boxes and, taking therefrom all the ballot papers and pieces thereof therein, proceed to ascertain the number of votes received by each candidate, and, as the case may require, each party listed in the ballot paper:

(c) He or she shall set aside as informal all ballot papers or pieces thereof which do not clearly indicate the candidate or party, as the case may require, for whom the voter desired to vote:

(d) He or she shall arrange for the result of the voting to be transmitted as soon as possible to the Returning Officer:

(e) Where the ballot paper is or is intended to be divided into two parts, he or she shall make up into separate parcels—

(i) The used pieces of Part A of the ballot paper together with (but in separate bundles) the pieces of Part A of the ballot paper set aside as informal and every piece of any ballot paper set aside under section 171 of this Act; and

(ii) The used pieces of Part B of the ballot paper together with (but in separate bundles) the pieces of Part B of the ballot paper set aside as informal:

(iii) A certificate or certificates signed by the Deputy Returning Officer and such of the scrutineers as are present and consent to sign the certificate or certificates, which shall certify the number of votes recorded for each candidate or party, the number of pieces of ballot papers set aside as informal, the number of ballot papers set aside under section 171 of this Act, the number of spoilt ballot papers, the number of ballot papers delivered to special voters, the number of unused ballot papers, and the number of ballot papers originally delivered to the Deputy Returning Officer:

(f) Where the ballot paper is not intended to be divided into pieces, he or she shall make up into separate parcels—

(i) The used ballot papers, together with (but in separate bundles) the ballot papers set aside as informal, and the ballot papers set aside under section 171 of this Act; and

(ii) A certificate signed by the Deputy Returning Officer and by such of the scrutineers as are present and consent to sign it of the number of votes received by each candidate or each party, the number of ballot papers set aside as informal, the number of ballot papers set aside under section 171 of this Act, the number of spoilt ballot papers, the number of ballot papers delivered to special voters, the number of unused ballot papers, and the number of ballot papers originally delivered to the Deputy Returning Officer.

(2) Each parcel made up under this section shall be endorsed by the Deputy Returning Officer with a description of its contents, the name of the district, the name of the polling place, the number of the booth and the date of the polling; and

the endorsement shall be signed by the Deputy Returning Officer and by such of the scrutineers as are present and desire to sign it; and the parcel shall be enclosed in paper or similar material and shall be properly secured.

(3) The Deputy Returning Officer shall forthwith forward all the parcels mentioned in this section to the Returning Officer.

Cf. 1956, No. 107, s. 111; 1990, No. 1, s. 58

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 shall, before being allowed to act, make a declaration in form 1 before the Returning Officer or the Deputy Returning Officer or 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) No person other than the Returning Officer and the Returning Officer's assistants, and the scrutineers, shall be present at the scrutiny.

(6) No candidate shall act as scrutineer under this section.

(7) A scrutineer appointed under this section may be appointed by facsimile transmission.

Cf. 1956, No. 107, s. 112; 1990, No. 1, s. 59 (1)

176. Marked copies of rolls to be compared—(1) The Returning Officer—

- (a) Shall, in the presence and hearing of his or her assistants (if any) and such scrutineers as are entitled to be present under this Act or any other Act, but of no other person, compare one with another—

- (i) 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

(ii) All records of special votes exercised in respect of the district; and

(iii) The list of post-writ day deletions supplied to the Returning Officer by the Registrar of Electors pursuant to section 123 (b) of this Act; and

(b) Shall on an unmarked copy of the main roll and every supplementary roll (called the master roll) draw a line through 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 Deputy Returning Officer on the ballot papers or pieces thereof set aside under section 171 of this Act, and after such inquiry as the Returning Officer considers necessary, it appears that the same voter has received more than one ballot paper, the Returning Officer—

(a) Shall, in the presence of his or her or assistants (if any) and such scrutineers as choose to be present, but of no other person, open the parcel or parcels of ballot papers or pieces thereof used at the polling booth or polling booths at which that voter appears to have received a ballot paper; and

(b) Shall select from the parcel or parcels the ballot papers or pieces thereof which appear from their consecutive numbers and counterfoils to have been issued to that voter; and

(c) Shall, subject to subsection (3) of this section, disallow every vote appearing to have been given by means of the ballot papers or pieces thereof 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 or that two pieces of one ballot paper only were 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) Shall, in the presence of his or her assistants (if any) and such scrutineers as choose to be present, but of no other person, open the parcel or parcels of ballot papers or pieces thereof used at the polling booth or polling booths at which any such ballot paper appears to have been received; and
- (b) Shall select from the parcel or parcels every ballot paper or piece thereof which appears from its consecutive number and counterfoil to have been so received; 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 or piece thereof 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 or piece thereof 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 the vote given by means of that ballot paper or piece thereof.

(6) Notwithstanding subsections (4) and (5) of this section, if—

- (a) The Returning Officer is satisfied that the name by which a ballot paper or piece thereof 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 or two pieces comprising that ballot paper only were 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 or that two pieces of the ballot paper only were 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) For the purposes of subsections (2) and (4) of this section, every ballot paper or piece thereof issued to a special voter shall be deemed to have been issued at a polling booth.

(8) Except in the case of the ballot papers or pieces thereof so selected therefrom, the Returning Officer shall inspect only the consecutive numbers on the ballot papers or pieces thereof in the several parcels so opened, and shall so cover the ballot papers or pieces thereof that no person present shall have the opportunity of determining the constituency candidate or party for whom any particular voter has voted.

Cf. 1956, No. 107, s. 113; 1983, No. 104, s. 19

177. Parcels to be secured after scrutiny—(1) When the Returning Officer has selected from any parcel all the ballot papers or pieces thereof 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 or pieces thereof 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 or pieces thereof 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 or pieces thereof 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.

Cf. 1956, No. 107, s. 114

Official Count and Declaration of Poll

178. Counting the votes—(1) On completion of the scrutiny hereinbefore directed the Returning Officer, with such assistants as the Returning Officer considers necessary, and in the presence of such of the scrutineers appointed under section 175 of this Act as are present (not exceeding, unless the

Returning Officer otherwise permits, one scrutineer for each candidate), and also in the presence of some Justice (who shall attend at the request of the Returning Officer), but of no other person, shall select and open one of the parcels of used ballot papers or pieces referred to in section 174 (1) (e) or (1) (f) of this Act.

(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 booth may be counted while any inquiries in respect of ballot papers from that booth 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 or pieces thereof as follows:

(a) He or she shall reject as informal—

(i) Any ballot paper or piece of a 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 any Deputy Returning Officer or a poll clerk authorised by a Deputy Returning Officer to issue ordinary ballot papers; and

(ii) A ballot paper or a piece of the 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 piece of the ballot paper shall be rejected as informal by reason only of some informality in the manner in which it or any other piece of the ballot paper has been dealt with by the voter if the ballot paper or piece of the ballot paper being considered is otherwise regular, and if, in

the opinion of the Returning Officer, the intention of the voter is clearly indicated:

Provided also that no ballot paper or piece 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 count the number of votes received by each constituency candidate and, where applicable, the votes received by each party, and the number of votes rejected as informal, and compare the result of that count with the certificate of the Deputy Returning Officer in respect of the preliminary count, and shall, where necessary, amend that certificate; and every such certificate shall be initialled by the Returning Officer and the Justice attending:

(c) The Returning Officer shall then make up and secure anew, and endorse thereon a memorandum specifying the number of ballot papers or pieces thereof contained in the parcel, the number of votes received by each constituency candidate or party, as the case may require, the number of informal ballot papers or pieces thereof, and the number of the booth at which the votes were recorded; and the endorsement shall be signed by the Returning Officer and the Justice attending.

(6) After the ballot papers or pieces thereof from one parcel have been dealt with in the manner aforesaid, those from the remaining parcels shall be successively dealt with in like manner.

(7) Subject to subsection (8) of this section, the ballot papers or pieces thereof 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) Where any parcel or receptacle containing the ballot papers or pieces thereof of special voters includes both Part A pieces of the ballot paper and Part B pieces of the ballot paper, the Part A pieces of the ballot paper shall be counted separately from the Part B pieces.

(9) When all the ballot papers and pieces thereof have been dealt with in the prescribed manner, the Justice attending shall sign a certificate stating the total number of ballot papers and pieces thereof used at the election, the number of votes received by each constituency candidate or party, 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.

(10) Where at any count of the ballot papers or pieces thereof under this section counting of the ballot papers or pieces thereof 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.

Cf. 1956, No. 107, s. 115; 1990, No. 1, s. 60 (1), (2)

179. Declaration of result of poll—(1) When all the ballot papers or pieces thereof have been dealt with as aforesaid, the Returning Officer, having ascertained the total number of votes received by each constituency candidate, and, where applicable, the total number of votes received by each party, shall declare the result of the poll by giving public notice thereof in form 14.

(2) Where there is an equality of votes between constituency candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Returning Officer shall forthwith apply to a District Court Judge for a recount under section 180 of this Act, and all the provisions of that section shall apply accordingly, except that no deposit shall be necessary.

(3) In any case where on any recount under section 180 of this Act there is an equality of votes between constituency candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Returning Officer shall determine by lot which candidate shall be elected.

(4) Upon declaring the result, the Returning Officer shall, where applicable, forward a certificate of the votes recorded on Part B of the ballot paper which are received by each of the parties listed on that part of the ballot paper to the Chief Electoral Officer.

Cf. 1956, No. 107, s. 116

Recount

180. Application to District Court Judge for recount—

(1) Any constituency candidate may, within 3 working days after the public declaration made under section 179 of this Act, apply to a District Court Judge for a recount of the votes for constituency candidates.

(2) Any Secretary of a political party listed on Part B of the ballot paper may, within 3 working days after the public declaration, apply to a District Court Judge for a recount of the votes for political parties recorded under Part B of the ballot paper.

(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 votes for constituency candidates or political parties named in Part B of the ballot paper, 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 votes for constituency candidates, the scrutineers appointed under section 175 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 of votes made on an application under subsection (2) of this section, the scrutineers

appointed under section 183 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 Returning 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.

Cf. 1956, No. 107, s. 117; 1990, No. 1, s. 61 (1)

181. Application by political party for recount in every electoral district—(1) Any Secretary of a political party listed on Part B of the ballot paper 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 votes for political parties recorded on Part B of the ballot paper 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 votes for political parties on Part B of the ballot paper to be conducted for each electoral district and, for that

purpose, shall, within 3 working days, 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.

182. Ability to combine recounts—Nothing in section 180 or section 181 of this Act requires the votes for constituency candidates, or the political parties listed on Part B of the ballot paper 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, those applications may be combined by the District Court Judge conducting the recount.

183. Scrutineers for recounts and allocation of list seats—(1) Any constituency candidate or political party affected by an application under section 180 or section 181 of this Act for a recount or recounts may appoint one or more scrutineers to be present at each recount.

(2) Any political party listed in Part B of the ballot paper 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.

(3) Every scrutineer appointed under this section shall, before being allowed to act, make a declaration in form 1 before the Returning Officer or the Deputy Returning Officer or a Justice of the Peace or a Solicitor.

(4) 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.

(5) A scrutineer appointed under this section may be appointed by facsimile transmission.

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 or pieces thereof, together with the Justice's certificate stating the total number of ballot papers or pieces thereof used at the election.

(2) If, on comparing the number of ballot papers or pieces thereof stated in the certificate with the ballot papers or pieces thereof used at the election, the District Court Judge finds that any of the ballot papers or pieces thereof 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 Returning Officer shall determine by lot which candidate shall be elected.

Cf. 1956, No. 107, s. 118

Return of Writ

185. Endorsement and return of writ—(1) The Returning Officer shall endorse on the writ—

(a) The name of the constituency candidate declared to be elected; and

(b) The date of the endorsement,—
and, having signed the endorsement, shall forthwith transmit the writ to the Clerk of the Writs.

(2) The date of the endorsement of the writ shall be deemed to be the day of the return of the writ.

(3) Subject to subsection (4) of this section, the writ shall be returned within the time specified in the writ for its return.

(4) Where it appears to the Returning Officer that an application for a recount of the votes for constituency candidates may be made as hereinbefore provided, he or she may postpone the return of the writ until the time for making the application has expired, and, if within that time application is made, he or she shall further postpone the return of the writ until the recount has been completed.

Cf. 1956, No. 107, s. 119

186. Copy of writ to be forwarded to Clerk of the House—As soon as may be convenient after the return of the writs, the Clerk of the Writs shall forward to the Clerk of the

House of Representatives a list of the names of those members elected to represent electoral districts, together with a copy of the writs endorsed as aforesaid.

Cf. 1956, No. 107, s. 120; 1986, No. 116, s. 5

Disposal of Ballot Papers

187. Disposal of ballot papers, rolls, etc.—(1) As soon as practicable after polling day the Returning Officer shall enclose in separate packets in the following manner all the parcels transmitted to him or her by the several Deputy Returning Officers or made up and secured by himself or herself, that is to say:

(a) The Returning Officer shall enclose—

(i) In one or more separate packets all the parcels of used ballot papers or pieces of ballot papers, including the special voters' ballot papers or pieces of ballot papers; and

(ii) In one or more other separate packets all the counterfoils of ballot papers that have been issued and all unused ballot papers; and

(iii) In one or more other separate packets all parcels of spoilt ballot papers or pieces of spoilt ballot papers; and

(iv) In one or more other separate packets all parcels of ballot papers or pieces of ballot papers set aside under section 171 or section 177 of this Act; and

(v) In one or more other separate packets all parcels containing ballot paper accounts, copies of rolls (except the master roll), books, or other papers, as in this Act provided, and all letters and other papers received from any Deputy Returning Officer in respect of the votes of special voters:

(b) He or she shall properly secure the said several packets, and endorse them with a description of the contents thereof respectively; and the name of the district and the date of the polling, and shall sign the endorsement; and shall forthwith forward the said packets to the Clerk of the House of Representatives:

(c) He or she shall also at the same time properly secure and transmit to the Clerk of the House of Representatives a parcel containing all ballot papers printed for the election and not used by the Returning Officer or distributed for use to his or her Deputies.

(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.

Cf. 1956, No. 107, s. 121; 1981, No. 120, s. 38; 1990, No. 1, s. 62

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.

Cf. 1956, No. 107, s. 121A; 1990, No. 1, s. 63

189. Disposal of packets—(1) The packets and parcel shall be safely kept for one year 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 one year the packets and parcels shall be destroyed unopened in the presence of the Clerk of the House of Representatives and the Clerk of the Writs.

Cf. 1956, No. 107, s. 122

190. Papers taken from parcels as evidence in certain cases—(1) Any ballot paper or piece thereof, 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 or piece thereof, was deposited and, if a roll or book, was kept or used at the election and booth to which the endorsement and writing relate.

(2) Every ballot paper or piece thereof 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 booth, according to the tenor of the said ballot paper or piece thereof.

(3) But, in the case of the ballot papers or pieces thereof set aside or selected by a Deputy Returning Officer or by the Returning Officer, the correspondence shall be evidence only of some person having voted in the name appearing on the roll.

Cf. 1956, No. 107, s. 123

List Seats

191. Election of other members—(1) When the Chief Electoral Officer has received from all Returning Officers the certificates required by section 179 (4) 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 certificates the total number of votes recorded in Part B of every ballot paper for each party listed in that part of the ballot paper.

(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 greater than 5 percent of all the votes recorded in Part B of the ballot paper; and

(b) Is a party in respect of which no constituency candidate has had his or her name endorsed on a writ pursuant to section 185 of this Act as a person declared to be elected as a member of Parliament;—

and 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 Part B of the ballot paper.

(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) In the event that the name of any person who is an independent or a member of a political party that did not appear on the list of parties in Part B of the ballot paper is endorsed on a writ pursuant to section 185 of this Act as a person declared to be elected, 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.

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 Part B of the ballot paper is entitled by adding the number of circles in the column of numbers under the name of that party.

(2) The Chief Electoral Officer shall then proceed, in respect of each remaining party listed in Part B of the ballot paper, to deduct from the number of seats to which each party is entitled under subsection (1) of this section, the number of persons who stood as constituency candidates for 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) Subject to subsection (4) 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.

(4) If any party listed in Part B of the ballot paper has obtained, through the election of its constituency candidates, 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.

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 Part B of the ballot paper 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 a 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 is practicable after selecting the names of those candidates entitled to be elected, declare those candidates to be elected and 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.

Maintenance of Order at Elections

194. Deputy Returning Officers to maintain order—

(1) Every Deputy Returning Officer shall maintain order and keep the peace at the polling place where he or she is conducting the poll, 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 mentioned in section 201 of this Act; or
- (b) Cause to be removed any person who obstructs the approaches to a polling booth, 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 Deputy Returning Officer.

(2) All constables shall aid and assist the Deputy Returning Officer in the performance of his or her duty.

Cf. 1956, No. 107, s. 124

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 Deputy 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.

Cf. 1956, No. 107, s. 125

Custody of Ballot Papers

196. Prevention of irregularities as to ballot papers—In order to prevent the commission at any election of irregularities in respect of the improper possession of ballot papers or pieces of ballot papers, the following provisions shall apply:

(a) The Returning Officer shall give to the person printing the ballot papers a receipt specifying the total number of ballot papers received by the Returning Officer, and it shall be the duty of the printer to see that all copies of the ballot paper other than those delivered to the Returning Officer are immediately destroyed:

(b) Every Deputy Returning Officer shall give to the Returning Officer a receipt specifying the total number of ballot papers received by the Deputy Returning Officer, and shall be personally responsible for the safe custody of all such ballot papers from the

time they are received by the Deputy Returning Officer until they are issued or otherwise disposed of in accordance with this Act:

- (c) Every Deputy Returning Officer shall be personally responsible for the safe custody of all ballot papers and pieces of ballot papers used at the polling booth at which he or she presides from the time each ballot paper or piece of a ballot paper was placed in the ballot box by the voter until the parcel of used ballot papers or pieces of used ballot papers has been delivered to the Returning Officer as in this Act provided and the Deputy Returning Officer has obtained from the Returning Officer a receipt in writing for the parcel, which receipt the Returning Officer is in all cases required to give on such delivery:
- (d) In like manner every Returning Officer shall be personally responsible for the safe custody of all ballot papers and pieces of ballot papers used at the polling booth at which he or she presides until they have been sent to the Clerk of the House of Representatives as hereinbefore provided, and also for the safe custody of all parcels of used ballot papers or of pieces of used ballot papers for which he or she has given a receipt to a Deputy Returning Officer, until they have been sent by the Returning Officer to the Clerk of the House of Representatives as aforesaid:
- (e) Every Returning Officer or Deputy Returning Officer who fails to take reasonable steps to secure the safe custody of all ballot papers and pieces of ballot papers for which he or she is responsible, with the result that any such ballot paper or piece of a ballot paper is removed from his or her custody, shall be liable on summary conviction to a fine not exceeding \$2000:
- (f) Every person shall be liable on summary conviction to a fine not exceeding \$2,000 who wilfully or negligently allows any copy of a ballot paper printed by that person to come into the possession of any person other than the Returning Officer:
- (g) Every person shall be liable on summary conviction to a fine not exceeding \$2,000 who, except in accordance with any regulations made under this Act in relation to special voters, obtains possession of or has in his or her possession any ballot paper or piece of a ballot

paper other than the ballot paper or the pieces of the ballot paper given to that person by the Returning Officer or Deputy Returning Officer for the purpose of recording his or her vote, or retains any ballot paper or piece of a ballot paper in his or her possession after leaving the polling booth.

Cf. 1956, No. 107, s. 126; 1990, No. 1, s. 64 (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 booth or while the elector is on the way to the polling booth 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 or piece of a 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 p.m. 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 or imitation piece of a ballot paper) having thereon the names of the candidates or the parties or any of them:

(i) Exhibits or leaves in any polling booth 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 Deputy Returning Officer that the exhibition was taking place.

(3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Act.

Cf. 1956, No. 107, s. 127; 1990, No. 1, s. 65 (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.

Cf. 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.

Cf. 1956, No. 107, s. 127A (4); 1981, No. 120, s. 40 (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 piece of a 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.

Cf. 1956, No. 107, s. 129; 1990, No. 1, s. 67 (1)

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 piece of a ballot paper, or the official mark on any ballot paper or piece of a ballot paper:

(b) Without due authority supplies any ballot paper or piece of a ballot paper to any person:

- (c) Fraudulently puts into any ballot box any paper other than the ballot paper or piece of a ballot paper that he or she is authorised by law to put therein:
 - (d) Fraudulently takes out of a polling booth any ballot paper or piece of a 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 or of pieces 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 Deputy Returning Officer, or an official or clerk in attendance at a polling booth, 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.

Cf. 1956, No. 107, s. 130; 1990, No. 1, s. 68

202. Property to be stated as being in Returning Officer—In any prosecution for an offence in relation to any ballot boxes, ballot papers, pieces of ballot papers, or marking instruments at an election, the property in the boxes, ballot papers, pieces of ballot papers, and instruments may be stated as being in the Returning Officer.

Cf. 1956, No. 107, s. 131

203. Infringement of secrecy—(1) Every official, clerk, scrutineer, interpreter, 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 booth information as to the candidate for whom or the party for which any voter in a booth is about to vote or has voted:
 - (c) Communicate at any time to any person any information obtained in a polling booth as to the candidate for whom or the party for which any voter at the booth is about to vote or has voted, or as to the consecutive number on the ballot paper or any piece of the ballot paper given to any voter at the booth.
- (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 or any piece of 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.

Cf. 1956, No. 107, s. 132 (1)-(4); 1983, No. 104, s. 20

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.

Cf. 1956, No. 107, s. 132 (5); 1990, No. 1, s. 69

Distribution of Page and Line Numbers

205. Distribution of page and line numbers—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who, being a candidate or a representative of a political party or a person conducting a campaign in relation to a public issue, and for the purpose of promoting his or her candidacy, political party, or campaign, gives or offers to give any person any written information as to the page and line number applicable in respect of that person's name where it appears on the main roll or any supplementary roll.

Cf. 1956, No. 107, s. 132B; 1981, No. 120, s. 42; 1990, No. 1, s. 71

*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 30 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 60 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.

Cf. 1956, No. 107, s. 133

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 60 days, the claim shall be deemed to be a disputed claim, and the claimant may, if he or she thinks fit, within 30 days after the expiration of the said 60 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.

Cf. 1956, No. 107, s. 134

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.

Cf. 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 \$20, be vouched by a bill stating the particulars, and by a receipt.

Cf. 1956, No. 107, s. 136; 1983, No. 104, s. 21 (1)

210. Return of election expenses—(1) Within 70 days after the day on which the candidate returned at any election is declared elected, every candidate at the election shall transmit to the Returning Officer a return of the candidate's election expenses in form 16 or to the like effect.

(2) 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 Returning Officer within 21 days after the date of the candidate's return to New Zealand.

(3) Every candidate who fails to transmit the return to the Returning 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.

(4) Every candidate who transmits a return that is false in any material particular commits a corrupt practice, unless he or she satisfies the Court that he or she had no intention to mis-state or conceal the facts.

(5) It shall be the duty of the Returning Officer to see that the provisions of this section are faithfully complied with.

(6) 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.

Cf. 1956, No. 107, s. 137; 1983, No. 104, s. 22; 1990, No. 1, s. 72 (1)

211. Return to be open for public inspection—The Returning Officer shall keep every such return in the Returning Officer's office, or at some other convenient place to be appointed by the Minister, for a period of one year after it has been received by the Returning Officer, and during that period the return shall be open to inspection by any person on payment of such charges (if any) as shall be made under the Official Information Act 1982; and at the expiration of that period the Returning Officer shall cause the return to be destroyed.

Cf. 1956, No. 107, s. 138; 1990, No. 1, s. 73

212. Transmission of copy of return to Chief Electoral Officer—(1) The Returning Officer shall, as soon as practicable after receiving a return under section 210 of this Act, send a copy of that return to the Chief Electoral Officer.

(2) The Chief Electoral Officer shall keep the copy in his or her office or in some other convenient place for the period beginning with the date of the receipt of that copy and ending with the close of polling day for the second general election that takes place after the date on which the copy was received by the Chief Electoral Officer.

(3) During that period the copy of the return shall be open to inspection by any person on payment of such charges (if any) as shall be made under the Official Information Act 1982; and at the expiration of that period the Chief Electoral Officer shall cause the copy of the return to be destroyed.

Cf. 1956, No. 107, s. 138A; 1990, No. 1, s. 73

213. Maximum amount of election expenses—

(1) Subject to this section and to section 214 of this Act, in this Act,—

“Election activity”, in relation to a candidate at an election in any district, and in relation to a candidate included in a list submitted pursuant to section 127 of this Act, means an activity—

(a) Which is carried out by the candidate or with the candidate's authority; and

(b) Which relates to the candidate solely in the candidate's capacity as a candidate for the district or as a candidate included in a list submitted under section 127 or both capacities and not to the candidate—

(i) In his or her capacity as a member of Parliament or as the holder of any other office; or

(ii) In any other capacity; and

(c) 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

(d) Which relates exclusively to the campaign for the return of the candidate; and

(e) 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; 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 expenses of operating a vehicle on which election advertising appears if that vehicle is used bona fide by the candidate as the candidate's personal means of transport; and

(f) Does not include the labour of any person which is provided to the candidate free of charge by that person.

(2) The total election expenses of a candidate shall not,—

(a) In the case of a candidate at a general election, exceed \$15,000 (which sum shall be inclusive of goods and services tax); or

(b) In the case of a constituency candidate at a by-election, exceed \$30,000 (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 (d) 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.

Cf. 1956, No. 107, s. 139; 1990, No. 1, s. 74 (1)

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.

Cf. 1956, No. 107, s. 139A; 1990, No. 1, s. 74

PART VII

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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 1956, No. 107, s. 147

221. Advertisements for candidates—(1) 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 used or appearing to be used to promote or procure the election of any candidate at an election unless—

- (a) The publication of that advertisement is authorised in writing by the candidate 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.

(2) Every person is guilty of an illegal practice who wilfully contravenes any provision of subsection (1) of this section.

(3) A candidate shall not be liable for an illegal practice under this section committed by an agent without the consent or connivance of the candidate.

(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.

Cf. 1956, No. 107, s. 147A (1), (3)-(5); 1977, No. 128, s. 10; 1990, No. 1, s. 75(b)

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.

Cf. 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.

Cf. 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 section 201 of this Act.

Cf. 1956, No. 107, s. 150; 1990, No. 1, s. 76 (1)

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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 1956, No. 107, s. 154

PART VIII

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.

Cf. 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.

Cf. 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 49 days after the day on which the Returning 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 49 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.

Cf. 1956, No. 107, s. 157; 1975, No. 28, s. 45

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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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).

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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.

Cf. 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 Part B of the ballot paper.

(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 Part B of the ballot paper, 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.

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 49 days of the date of the declaration made under section 193 (5) of this Act by the Chief Electoral Officer.

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, section 252 (other than subsection (2)), and section 256 of this Act shall apply, with any necessary modifications, as if references to the High Court were references to the Court of Appeal.

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 IX

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.

Cf. 1956, No. 107, s. 184

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.

Cf. 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.

Cf. 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 the requirements in respect of computer tapes, disks, or diskettes supplied to the Chief Registrar under this Act:

(c) Prescribing fees, or a scale of fees, for the supply of computer-compiled lists, computer tapes, disks, or

diskettes by the Chief Registrar to any person under section 114 of this Act:

- (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.

Cf. 1956, No. 107, s. 188; 1990, No. 1, s. 78 (1)

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.

Cf. 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—The Fourth Schedule 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—(1) Section 7BA (2) of the Local Elections and Polls Act 1976 (as inserted by section 4 of the Local Elections and Polls Amendment Act 1989) is hereby amended by omitting the expression “section 64A of the Electoral Act 1956”, and substituting the expression “section 113 of the Electoral Act 1993”.

(2) Section 7BA (3) (c) of the Local Elections and Polls Act 1976 (as inserted by section 4 of the Local Elections and Polls Amendment Act 1989) is hereby amended by omitting the expression “section 64A of the Electoral Act 1956”, and substituting the expression “section 113 of the Electoral Act 1993”.

275. Supply of information by Chief Registrar of Electors—Section 7BF of the Local Elections and Polls Act 1976 (as inserted by section 4 of the Local Elections and Polls Amendment Act 1989) is hereby amended by omitting the expression “the Electoral Act 1956”, and substituting the expression “the Electoral Act 1993”.

276. Application for registration as Parliamentary elector—Section 7E of the Local Elections and Polls Act 1976 (as inserted by section 4 of the Local Elections and Polls Amendment Act 1989) is hereby amended by omitting the expression “the Electoral Act 1956”, and substituting the expression “the Electoral Act 1993”.

277. Completion of roll—Section 7F (a) of the Local Elections and Polls Act 1976 (as inserted by section 4 of the Local Elections and Polls Amendment Act 1989) is hereby amended by omitting the expression “section 64A of the Electoral Act 1956”, and substituting the expression “section 113 of the Electoral Act 1993”.

278. Amendments to roll—Section 7G (2) of the Local Elections and Polls Act 1976 is hereby amended by omitting the expression “64A of the Electoral Act 1956”, and substituting the expression “section 113 of the Electoral Act 1993”.

279. Roll for by-election or poll—Section 7J (2) of the Local Elections and Polls Act 1976 (as inserted by section 4 of the Local Elections and Polls Amendment Act 1989) is hereby amended by omitting the expression “section 64A of the Electoral Act 1956”, and substituting the expression “section 113 of the Electoral Act 1993”.

280. Special voters—Section 37 (b) (ii) of the Local Elections and Polls Act 1976 (as substituted by section 15 (1) of the Local Elections and Polls Amendment Act 1982) is hereby amended by inserting, after the expression “section 62A of the Electoral Act 1956”, the expression “or section 115 of the Electoral Act 1993”.

281. Election to fill extraordinary vacancy in local authority—Section 51 (13) (c) of the Local Elections and Polls Act 1976 (as substituted by section 14 of the Local Elections and Polls Amendment Act 1988) is hereby amended by omitting the expression “Electoral Act 1956”, and substituting the expression “Electoral Act 1993”.

Amendment to Ombudsmen Act 1975

282. Organisations to which Ombudsmen Act 1975 applies—Part II of the First Schedule to the Ombudsmen Act 1975 is hereby amended by inserting, in its appropriate alphabetical order, the following item:

“The Electoral Commission.”

Amendments to Public Finance Act 1989

283. Crown entities—The Fourth, Fifth, and Seventh Schedules to the Public Finance Act 1989 (as added by section 41 of the Public Finance Amendment Act 1992) are hereby amended by inserting in each of those Schedules, in its appropriate alphabetical order, the following item:

“Electoral Commission.”

Repeals

284. Repeals—The enactments specified in the Third Schedule to this Act are hereby repealed.

SCHEDULES

FIRST SCHEDULE

Section 14

PROVISIONS RELATING TO ELECTORAL COMMISSION

1. Remuneration of members of Commission—(1) There shall be paid to the members of the Commission such remuneration by way of fees, salary, wages, or allowances as may from time to time be determined, either generally or in respect of any particular member or members of the Commission, by the Higher Salaries Commission.

(2) Any determination under subclause (1) of this clause shall take effect on such date (whether the date thereof or any earlier or later date) as may be specified therein. If no such date is specified, the determination shall take effect on the date thereof.

2. Travelling allowances and expenses—(1) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Commission travelling allowances and travelling expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

3. Staff—(1) Subject to the provisions of this clause, the chief executive of the Electoral Commission may appoint such officers and employees (including acting or temporary or casual officers and employees) as may be necessary for carrying this Act into effect.

(2) The number of persons that may be appointed under this clause, whether generally or in respect of any specified duties or class of duties, shall from time to time be determined by the Minister of Justice.

(3) Officers and employees appointed under this clause shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as the chief executive from time to time determines in agreement with the State Services Commissioner, or as the Minister from time to time determines in any case where the chief executive and the State Services Commissioner fail to agree.

4. Superannuation or retiring allowances—(1) For the purposes of providing superannuation or retiring allowances for the chief executive and for any of the officers or employees of the Electoral Commission, the chief executive 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 II or Part IIA 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 person's service as the chief executive or, as the case may be, as such an officer or employee were Government service.

FIRST SCHEDULE—*continued*PROVISIONS RELATING TO ELECTORAL COMMISSION—*continued*

(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.

5. Application of certain Acts to Commission and staff—No person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person's appointment as a member of the Commission or a person appointed under clause 3 of this Schedule.

6. Services for Commission—(1) The Crown, acting through any Department, may from time to time, at the request of the Commission, execute any work or enter into any arrangements for the execution or provision by the Department for the Commission of any work or service, or for the supply to the Commission of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed.

(2) To assist the Commission in carrying this Act into effect, the chief executive may on behalf of the Commission engage such contractors or consultants as he or she thinks fit.

7. Funds of Commission—The funds of the Electoral Commission shall consist of—

- (a) Any money appropriated by Parliament for the purposes of the Commission and paid to the Commission for the purposes of the Commission;
- (b) All other money lawfully received by the Commission for the purposes of the Commission;
- (c) All accumulations of income derived from any such money.

8. Bank accounts—(1) The Electoral Commission shall open at any bank or banks such accounts as are necessary for the exercise of the Commission's functions and powers.

(2) All money received by the Commission, or by any officer or employee of the Commission shall, as soon as practicable after it has been received, be paid into such bank accounts of the Commission as the Commission from time to time determines.

(3) The withdrawal or payment of money from any such account shall be authorised in such manner as the Commission thinks fit.

9. Investment of money—Any money that belongs to the Electoral Commission and that is not immediately required for expenditure by the Commission may be invested pursuant to section 25 of the Public Finance Act 1989.

FIRST SCHEDULE—*continued*PROVISIONS RELATING TO ELECTORAL COMMISSION—*continued*

10. Commission not to borrow without consent of Minister of Finance—Notwithstanding anything in section 6 of this Act, the Electoral Commission shall not borrow or contract to borrow any money, or renew any loan made to the Commission, without the prior written consent of the Minister of Finance.

11. Seal—The Commission's seal of office shall be judicially noticed in all Courts and for all purposes.

12. Exemption from income tax—The income of the Commission shall be exempt from income tax.

13. Crown entity—(1) The Commission shall be a Crown entity for the purposes of the Public Finance Act 1989.

(2) The annual financial statements of the Commission shall be audited by the Audit Office which, for that purpose, shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and public stores.

SECOND SCHEDULE

FORMS

Sections 26, 159, 160, 175

Form 1

DECLARATION BY POLLING OFFICER OR SCRUTINEER

I, A. B., [*Insert place of abode and description*], solemnly and sincerely declare that I will well and truly serve in the office of—

*Returning Officer

*Deputy Returning Officer

*Poll Clerk

*Usher

*Interpreter

*Scrutineer for C. D., a candidate,

at the poll in the Electoral District, and that I will not do anything forbidden by section 203† of the Electoral Act 1993.

Declared at this
day of 19
before me:

}

A.B.

.....
C.D.

*Justice of the Peace.

*Solicitor.

*Returning Officer.

*Deputy Returning Officer.

NOTE—Declarations by Returning Officers must be made before a Justice of the Peace or a Solicitor.

*Delete whichever do not apply

†Section 203 of the Electoral Act 1993 is printed on the back of this form and must be read by or to the declarant.

SECOND SCHEDULE—*continued*

Form 2

Section 125

WARRANT FOR ISSUE OF WRITS FOR GENERAL ELECTION
Governor-General

To the Clerk of the Writs

PURSUANT to the Electoral Act 1993, I hereby authorise and direct you to proceed forthwith to issue writs for the election of members of Parliament for all electoral districts within New Zealand.

As witness the hand of Her Excellency the Governor-General this
day of 19 .

C. D.,
Minister of Justice.

Form 3

Sections 126, 132

WRIT FOR ELECTION

To the Returning Officer for the Electoral District

PURSUANT to the Electoral Act 1993, I hereby authorise and require you to proceed, according to law, to the election of a member of Parliament to serve in the House of Representatives for the Electoral District.

The last day for the nomination of candidates shall be the
day
of 19 .

In the event of the election being contested, the poll shall be taken on
Saturday the day of 19 .

You are hereby required to endorse on this writ the name of the person
elected, and then to return the writ to me on or before the day
of 19 .

Dated at this day of 19 .

A. B.,
Clerk of the Writs.

SECOND SCHEDULE—*continued*

Section 127 (2)

Form 4

FORM OF LIST TO BE SUBMITTED BY POLITICAL PARTIES

To the Chief Electoral Officer

I, the undersigned Secretary of the [Specify] political party, which is a registered political party under Part IV of the Electoral Act 1993, hereby submit in order of preference the list of candidates specified in the Annex to this form as the party's candidates for election pursuant to sections 191 to 193 of the Electoral Act 1993 at the next general election.

I declare that each of the persons named in the list is qualified to be a candidate and to be elected a member of Parliament both in terms of the Electoral Act 1993 and any other enactment.

I enclose with this list copies of the consents of all candidates to the inclusion of their names in this list.

Dated at this day of 19 .

.....
[Signature of the Secretary of the
Political Party]

The address for service of the political party is

ANNEX

LIST OF NAMES OF CANDIDATES

[Insert name of Political Party]

Here list names and addresses and telephone numbers of candidates in order of preference.

Order of Preference	Name	Address	Telephone Number
1			
2			
3			
4			
5, etc.:			

SECOND SCHEDULE—*continued*

Form 5

Section 127 (5)

FORM OF CONSENT TO INCLUSION OF NAME ON PARTY LIST

I, [Name], being qualified to be a candidate and to be elected a member of Parliament in terms both of section 47 of the Electoral Act 1993 and of any other enactment, hereby consent to the inclusion of my name as a candidate for the [Name of Political Party] in the list submitted by that political party, pursuant to section 127 of that Act.

My surname is

My given names are

Dated at this day of 19

.....
[Signature, residence, and occupation, and
telephone number of person nominated.]

Form 6

Section 129

WARRANT FOR ISSUE OF WRIT FOR BY-ELECTION

To the Clerk of the Writs

PURSUANT to the Electoral Act 1993, I hereby authorise and direct you to proceed forthwith to issue a writ for the election of a member of Parliament for the Electoral District.

Dated this day of 19

E. F.,
Speaker of the House of Representatives.

SECOND SCHEDULE—*continued*

Section 134

Form 7

WARRANT TO SUPPLY VACANCY

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*].

Dated this day of 19 .

E. F.,

Speaker of the House of Representatives.

Section 142

Form 8

NOTICE OF NOMINATION DAY AND POLLING DAY

Electoral District

I hereby give notice that on Saturday the day of
19 the following poll(s) will be held within the Electoral
District.

Election of Member of Parliament

Nomination of constituency candidates for the position of member of Parliament for the district must be in my hands at the address shown below not later than noon on the day of 19 , each candidate requiring to be nominated by not less than 2 registered electors of the district by the prescribed nomination paper.

Dated at this day of 19 .

A. B.,

Returning Officer.

SECOND SCHEDULE—continued

Form 9

Section 143

NOMINATION PAPER

To the Returning Officer

ELECTORAL DISTRICT	
--------------------	--

ELECTION

This nomination of a Constituency Candidate is made in relation to the election of a member of Parliament for the above-mentioned Electoral District. The polling day in relation to that election is Saturday, the day of 19 .

THE NOMINATORS	Surnames	Given Names	Registered Addresses and Occupations	ROLL NUMBERS		Signatures
				Page No.	Line No.	
2 Required						
(Please print details)						
				FOR OFFICIAL USE		

We, the nominators specified in this paper, being electors registered for the above-mentioned Electoral District, do hereby nominate for election for that Electoral District, the following person:

	Surname	Given Names	Registered Address	Occupation
Details of Person Nominated as Candidate				

Consent of person nominated as Constituency Candidate	I, (name) being qualified to be a candidate and to be elected a member of Parliament in terms both of section 47 of the Electoral Act 1993 and of any other enactment, hereby consent to the above nomination.		
	The name that I wish to appear on the ballot paper (being a name that is short enough to appear on the ballot paper) is shown below		
Name to appear on Ballot Paper	(please print)		My telephone contact number is:

Political Party (If any)	"I am a candidate for the Party.		
	or "I am an independent candidate. *Delete whichever is inapplicable		

Signature of Person Nominated Date / /

Deposit to be refunded to FOR OFFICIAL USE	Name
	Address

Acknowledgment of nomination	M	I acknowledge receipt of your nomination and the deposit of \$300 (inc GST).	
		
Date/...../.....	Electoral District		
	Signature of Returning Officer		

Notes

- As to the nomination of candidates, see section 143 of the Electoral Act 1993.
- As to required deposit, see section 144 of the Electoral Act 1993.
- As to the acceptance or rejection of nominations, see section 145 of the Electoral Act 1993.
- As to the names under which candidates may be nominated, see subsections (2) to (5) of section 145 of the Electoral Act 1993.
- As to the withdrawal of nominations, see section 146 of the Electoral Act 1993.

SECOND SCHEDULE—*continued*

Section 146

Form 10

NOTICE OF WITHDRAWAL OF NOMINATION

To the Returning Officer for the Electoral District

I, the undersigned, hereby give notice that I withdraw my nomination as a candidate at the election of a member of Parliament for the Electoral District.

Dated at this day of 19 .

[Signature]

[Residence]

[Description]

Signed in the presence of—

.....

C.D.,

Justice of the Peace

[or Solicitor].

Section 150

Form 11

BALLOT PAPER FOR GENERAL ELECTION

PART A

OFFICIAL MARK

.....
[Consecutive Number]

OFFICIAL MARK

..... Electoral District

ELECTION OF MEMBER OF PARLIAMENT

Directions

(Read carefully before voting)

1. This ballot paper consists of two separate pieces. Part A names the constituency candidates. Part B names the parties. This Part is Part A.
2. In this Part vote for only one candidate.
3. Vote by putting a tick immediately after the name of the candidate you choose.
4. After voting, fold this piece of the ballot paper and the other piece so that their contents cannot be seen and place them in the ballot box.
5. If you spoil either of the pieces of the ballot paper, return both pieces to the officer who issued them and apply for another ballot paper.
6. You must not take either of the pieces of the ballot paper out of the polling booth.

Vote for only one candidate.

SECOND SCHEDULE—*continued*Form 11—*continued*BALLOT PAPER FOR GENERAL ELECTION—*continued*PART A—*continued*

Vote Here

ARNOLD, Kristeena Wendy Jane LABOUR	<input type="radio"/>
BABBINGTON, Santaana NEW ZEALAND PARTY	<input type="radio"/>
CAPSTEEN, Timothy John Albert CITIZENS AGAINST POLITICAL PARTIES	<input type="radio"/>
CHRISTENSEN, Cristopher INDEPENDENT	<input type="radio"/>
HIGGINSON, Florence Joan MCGILLICUDDY SERIOUS	<input type="radio"/>
NIGHTINGALE, Kenneth DEMOCRATS	<input type="radio"/>
O'SULLIVAN, Samantha NATIONAL	<input type="radio"/>
PHILLIPS, Joshua NEW LABOUR	<input type="radio"/>
SEARANKE, John MANA MOTUHAKE	<input type="radio"/>
SHAW, Denis IMPERIAL BRITISH CONSERVATIVE	<input type="radio"/>

NOTES TO PART A*

1. As to the insertion of names of political parties, see ss. 150 (6) (d) and 151 of the Act.
2. As to the insertion of the word "independent", see s. 150 (8) of the Act.

*Not to be printed as part of the form.

SECOND SCHEDULE—*continued*
Form 11—*continued*
BALLOT PAPER FOR GENERAL ELECTION—*continued*
Perforations

OFFICIAL MARK

OFFICIAL MARK

PART B

.....
[Consecutive Number]

Directions
(Read carefully before voting)

- 1. In this Part vote only for one party.
- 2. Vote by putting a tick immediately after the name of the party you choose.

Vote for only one party.



Vote Here

Party A	<input type="radio"/>
Party B	<input type="radio"/>
Party C	<input type="radio"/>
Party D	<input type="radio"/>
Party E	<input type="radio"/>
Party F	<input type="radio"/>

SECOND SCHEDULE—*continued*

Form 12

Section 150 (18)

BALLOT PAPER FOR BY-ELECTION

OFFICIAL MARK

OFFICIAL MARK

.....
[Consecutive Number]

..... Electoral District

ELECTION OF MEMBER OF PARLIAMENT

Directions

(Read carefully before voting)

1. Vote for only one candidate.
2. Vote by putting a tick in the circle immediately after the name of the candidate you choose.
3. After voting, fold the ballot paper so that its contents cannot be seen and place it in the ballot box.
4. If you spoil this ballot paper, return it to the officer who issued it and apply for another.
5. You must not take this ballot paper out of the polling booth.

Vote for only one candidate.

SECOND SCHEDULE—*continued*Form 12—*continued*BALLOT PAPER FOR BY-ELECTION—*continued*

Vote Here

ARNOLD, Kristeena Wendy Jane LABOUR	<input type="radio"/>
BABBINGTON, Santaana NEW ZEALAND PARTY	<input type="radio"/>
CAPSTEEN, Timothy John Albert CITIZENS AGAINST POLITICAL PARTIES	<input type="radio"/>
CHRISTENSEN, Cristopher INDEPENDENT	<input type="radio"/>
HIGGINSON, Florence Joan McGILLICUDDY SERIOUS	<input type="radio"/>
NIGHTINGALE, Kenneth DEMOCRATS	<input type="radio"/>
O'SULLIVAN, Samantha NATIONAL	<input type="radio"/>
PHILLIPS, Joshua NEW LABOUR	<input type="radio"/>
SEARANKE, John MANA MOTUHAKE	<input type="radio"/>
SHAW, Denis IMPERIAL BRITISH CONSERVATIVE	<input type="radio"/>

NOTES*

1. As to the insertion of names of political parties, see ss. 150 (6) (d) and 151 of the Act.
2. As to the insertion of the word "independent", see s. 150 (8) of the Act.

*Not to be printed as part of the form.

SECOND SCHEDULE—*continued*Form 13
COUNTERFOIL

Section 150 (14)

Consecutive No.

No. on roll:

(To be entered here only)

.....
Initials of

Issuing Officer

.....

Form 14

Section 179

DECLARATION OF RESULT OF POLL

Electoral District

I HEREBY declare the result of the poll taken on the day of
 19 for the election of a member of Parliament for the
 Electoral District to be as follows:

Candidates						Votes Received
C. D.	
E. F.	
G. H.	
I. J.	
K. L.	
Total number of valid votes	<u> </u>
Number of votes rejected as informal	<u> </u>

I therefore declare the said C. D. to be elected.

I further declare the total number of votes received by political parties as a
 consequence of votes recorded on Part B of the ballot paper to be as
 follows:

Parties	Votes Received
A	
B	
C	
D	
E	
F	
G	

Dated at this day of 19 .

A.B.,
 Returning Officer.

SECOND SCHEDULE—*continued*

Section 191 (3)

Form 15

WORKING SHEET IN RELATION TO CANDIDATES WHOSE NAMES ARE
INCLUDED IN PARTY LISTS

Name of Party	Party A	Party B	Party C	Party D	Party E
---------------	---------	---------	---------	---------	---------

Total Votes
received under
Part B

Enter totals under relevant heading

QUOTIENTS OF DIVISIONS

Name of Party	Party A	Party B	Party C	Party D	Party E
---------------	---------	---------	---------	---------	---------

Total Votes
Divided by

1

3

5

7

9

11

13

15

17

"

"

*Enter quotients of divisions here under the columns for each
party*

Section 210

Form 16

RETURN OF ELECTION EXPENSES

I, A. B., a candidate at the general election held on the day of
19 , hereby make the following return of all election
expenses incurred by me or on my behalf at the election.

EXPENDITURE

[Here set out separately the name and description of every person or body of persons to whom or which any sum was paid, and the reason for which it was paid. Sums paid for radio broadcasting, television broadcasting, newspaper advertising, posters, pamphlets, etc., must be set out separately and under separate headings.]

Dated at this day of 19 .

A. B.

THIRD SCHEDULE

Section 284

ENACTMENTS REPEALED

- 1956, No. 109—The Electoral Act 1956. (R.S. Vol. 26, p. 173.)
- 1960, No. 4—The Electoral Amendment Act 1960. (R.S. Vol. 26, p. 333.)
- 1965, No. 17—The Electoral Amendment Act 1965. (R.S. Vol. 26, p. 333.)
- 1967, No. 149—The Electoral Amendment Act 1967. (R.S. Vol. 26, p. 333.)
- 1971, No. 67—The Electoral Amendment Act 1971. (R.S. Vol. 26, p. 334.)
- 1974, No. 54—The Electoral Amendment Act 1974. (R.S. Vol. 26, p. 335.)
- 1975, No. 28—The Electoral Amendment Act 1975. (R.S. Vol. 26, p. 335.)
- 1976, No. 46—The Electoral Amendment Act 1976. (R.S. Vol. 26, p. 339.)
- 1977, No. 128—The Electoral Amendment Act 1977. (R.S. Vol. 26, p. 340.)
- 1979, No. 12—The Electoral Amendment Act 1979. (R.S. Vol. 26, p. 341.)
- 1980, No. 29—The Electoral Amendment Act 1980. (R.S. Vol. 26, p. 341.)
- 1981, No. 120—The Electoral Amendment Act 1981. (R.S. Vol. 26, p. 346.)
- 1983, No. 104—The Electoral Amendment Act 1983. (R.S. Vol. 26, p. 351.)
- 1985, No. 120—The Criminal Justice Act 1985: So much of the First Schedule as relates to the Electoral Act 1956.
- 1985, No. 149—The Electoral Amendment Act 1985. (R.S. Vol. 26, p. 353.)
- 1985, No. 150—The Electoral Amendment Act (No. 2) 1985. (R.S. 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. (R.S. Vol. 26, p. 356.)
- 1986, No. 124—The State-Owned Enterprises Act 1986: So much of the Third Schedule as relates to the Electoral Act 1956.
- 1987, No. 74—The Immigration Act 1987: So much of the Fourth Schedule as relates to the Electoral Act 1956.
- 1987, No. 87—The Electoral Amendment Act (No. 2) 1987. (R.S. 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 the Second Schedule as relates to the Electoral Act 1956.
- 1989, No. 31—The Electoral Amendment Act 1989. (R.S. Vol. 26, p. 357.)
- 1989, No. 44—The Public Finance Act 1989: So much of the First Schedule as relates to the Electoral Act 1956.
- 1989, No. 142—The Acts and Regulations Publication Act 1989: Section 22. (R.S. Vol. 26, p. 358.)
- 1990, No. 1—The Electoral Amendment Act 1990. (R.S. Vol. 26, p. 359.)
- 1991, No. 68—The Electoral Amendment Act 1991.
- 1992, No. 36—The Electoral Amendment Act 1992.

This Act is administered in the Department of Justice.



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