

*Dr Wall*

## VOTING RIGHTS PROTECTION

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### A BILL INTITULED

**An Act to establish and secure the rights of voters in respect of public elections and polls and to provide for matters incidental thereto:**

- 5 WHEREAS up till now many thousands of votes cast in each election have not been counted and the votes have been invalid because for a variety of reasons electors' names were not included on the roll, and, whereas the people of New Zealand believe that anyone who has reached voting age
- 10 should be able to cast a valid vote in any election or poll in which he is qualified to vote, it is desirable that obstacles which prevent New Zealanders from voting for a candidate or cause of their choice should be removed:

- 15 **BE IT THEREFORE ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 56—1

Price 20c

**1. Short title and commencement**—(1) This Act may be cited as the Voting Rights Protection Act 1978.

(2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

**2. Interpretation**—In this Act, unless the context otherwise requires,— 5

“Candidate” means any person who has been nominated as a candidate for any office, seat, or vacancy which is capable of being filled by an election:

“Current roll” means a roll which has been made and published for a particular election or poll or for more than one of them to be held in conjunction: 10

“Election” means an election, general election, regular election, special election, or by-election required by law to be held under— 15

(a) The Electoral Act 1956:

(b) The Local Elections and Polls Act 1976:

(c) Any other enactment which applies either such Act for election purposes:

“Elector” means any person entitled under any law for the time being in force to vote at an election or poll, and includes any person so entitled by virtue of section 4 of this Act: 20

“Electoral Officer” has the same meaning as in the Electoral Act 1956: 25

“General electoral district” has the same meaning as in the Electoral Act 1956:

“Maori electoral district” has the same meaning as in the Electoral Act 1956:

“Poll” means— 30

(a) Any referendum or poll held under the Licensing Act 1908:

(b) Any poll held under the Local Elections and Polls Act 1976, other than an election:

(c) Any referendum or poll held in conjunction with an election, other than an election, whether or not such referendum or poll is provided for in any enactment: 35

(d) Any referendum or poll held in conjunction with a poll, other than an election, whether or not such referendum or poll is provided for in any enactment: 40

(e) Any poll held pursuant to any enactment in respect of which the Local Elections and Polls Act 1976 applies, other than an election:

5 (f) Any survey held pursuant to Part I of the Local Government Act 1974:

“Relevant roll” means—

(a) A current roll:

(b) An unpublished roll:

10 (c) Any roll for a previous election or poll, enrolment on which entitles electors to vote at a subsequent election or poll by virtue of a provision in that behalf in the enactment under which an election or a poll is held:

15 (d) In the case of an election or a poll held under the Local Elections and Polls Act 1976, any published roll or unpublished roll or any enrolment for a general electoral district or a Maori electoral district under the Electoral Act 1956 which entitles electors to vote at such election or poll by virtue of paragraph (b) of section 37 of the Local Elections and Polls Act 1976:

20 “Roll” means any roll, list, printout, or other record made prepared, or obtained which contains names of persons entitled to vote at an election or a poll, and includes—

25 (a) A main roll and any one or more supplementary rolls:

(b) A current roll:

(c) An unpublished roll:

30 (d) Every form, application, or claim for enrolment, or record of an enrolment that has been or ought to have been used in the making or preparation of a current roll or part thereof or in the data upon which any printout of all or part of a current roll has been obtained:

35 (e) Every form, application, or claim for enrolment, or record of an enrolment that forms part of an unpublished roll:

40 (f) A relevant roll and every form, application, claim, or record pertaining thereto that corresponds to those referred to in paragraphs (d) and (e) hereof:

45 (g) Every form, application, or claim for enrolment, or record of an enrolment that has been made pursuant to sections 6 or 8 of this Act:

(h) Every special voting declaration or extract therefrom or other record thereof that has become an enrolment pursuant to section 7 of this Act:

“Special vote”, in relation to an election or a poll, means any vote made as a special vote pursuant to the provisions of any enactment enabling special voting at such election or poll, and includes a special vote made by virtue of section 5 of this Act; and “special voter” has a corresponding meaning: 5

“Special voting declaration” means any declaration or other form used in an election or a poll as one of the steps in the making of a special vote, whether or not the particular declaration or form used is one that includes words or application for enrolment and whether or not any such or similar words have been written on the declaration or form by the special voter: 10 15

“Territorial authority” means a City Council, a Borough Council, a County Council, a District Council, or a Town Council: 20

“Unpublished roll” means—

(a) Any relevant roll or part thereof that has not been published:

(b) Every form, application, or claim for enrolment, or record of an enrolment in respect of an elector who has not been included in a current roll or, as the case may be, in any other relevant roll: 25

(c) Every form application, or claim for enrolment, or record of an enrolment that has been made pursuant to sections 6 or 8 of this Act. 30

(d) Every special voting declaration or extract therefrom or other record thereof that has become an enrolment pursuant to section 7 of this Act:

“Voter” means any voter who is voting or has voted at an election or a poll, and includes a special voter. 35

**3. This act to prevail over other enactments or proceedings thereunder—**(1) The provisions of this Act shall apply to all elections and polls, and to enrolments, rolls, and other matters incidental to all elections and polls.

(2) The provisions of this Act shall prevail over the provisions of the following enactments— 40

(a) The Electoral Act 1956; 45

- (b) The Licensing Act 1908:
- (c) The Local Elections and Polls Act 1976:
- (d) The Local Government Act 1974:
- 5 (e) Every other Act which applied provisions of any such Act for the purposes of an election or a poll or for the purposes of a roll or enrolments in connection with an election or a poll or for any other purposes incidental to an election or a poll:
- (f) Any other Act that provides for an election or a poll:
- 10 (g) Any Regulations or Rules or Order in Council made pursuant to any such Act.
- (3) In the event of any conflict arising between any of the provisions of this Act and any of the provisions of any enactment specified or referred to in subsection (2) of this section,
- 15 the provisions of this Act shall prevail.
- (4) In the event of any conflict arising between any of the provisions of this Act and the provisions, contents, or substance of any written or verbal order, notice, instruction, or other action or proceeding made or arising under any enactment specified or referred to in subsection (2) of this section
- 20 the provisions of this Act shall prevail.

**4. Right to vote to be based on eligibility rather than on enrolment—**(1) It is hereby declared that the right to vote at any election or any poll shall exist by reason of the eligibility of electors to be enrolled on a roll for that election or poll and not by reason of the fact of such enrolment on a relevant roll.

(2) It is hereby further declared that the purposes of rolls for elections and polls are to detect any instances of plural voting, to aid in the conduct of elections and polls, and to ensure that electors who are qualified to vote in any election or poll are enabled so to vote in the district or other area in respect of which the election or poll is held, and that such rolls do not provide the basis on which the right to vote shall exist.

(3) Any person who is eligible by law to be enrolled on a roll for an election or a poll shall be eligible to vote in that election or poll and in any other election or poll held in conjunction therewith for which the same roll is used and, subject to the provisions of this Act, no such vote shall be disallowed by reason only of the fact that the elector who cast the vote is not enrolled on a relevant roll.

**5. Eligible electors not on roll entitled to vote as special voters—**(1) Any person who is eligible to vote at an election or poll by virtue of section 4 of this Act may vote as a special voter at that election or poll and in any other election or poll held in conjunction therewith for which such person is also eligible to vote by virtue of section 4 of this Act. 5

(2) Section 99 of the Electoral Act 1956 is hereby consequentially amended by inserting, after paragraph (e), the following paragraph:

“(f) Any person who is entitled to vote by virtue of section 4 of the Voting Rights Protection Act 1978.” 10

(3) Section 100 of the Electoral Act 1956 is hereby consequentially amended by inserting, after paragraph (a) the following paragraph:

“(aa) He is entitled to vote by virtue of section 4 of the Voting Rights Protection Act 1978.” 15

(4) Section 72 of the Local Government Act 1974 is hereby consequentially amended by inserting, after the word “community” in the fourth line, the words “or who is an elector of any district, ward, or community by virtue of section 4 of the Voting Rights Protection Act 1978.” 20

(5) Section 37 of the Local Elections and Polls Act 1976 is hereby consequentially amended by inserting, after paragraph (a), the following paragraph:

“(aa) He is entitled to vote by virtue of section 4 of the Voting Rights Protection Act 1978.” 25

**6. Enrolments after time for closing of published rolls—**

(1) Any person entitled to be enrolled on a roll for an election or poll may be so enrolled at any time up to and including the closing time for voting in that election or poll, notwithstanding that the closing time for enrolments on a published current roll has passed. 30

(2) Every person who is entitled to be enrolled on a roll for an election or a poll and who makes an application or claim for enrolment thereon at any time before the closing time for voting in that election or poll shall be enrolled on that roll accordingly. 35

(3) Every person who is enrolled under the Electoral Act 1956 on the roll for a General electoral district or a Maori electoral district pursuant to the provisions of this Act shall, subject to section 43A of that Act (which relates to re-registration of electors at the time of census), continue to be 40

enrolled under that Act unless and until he ceases to be qualified to be so enrolled pursuant to the other provisions of Part III of that Act (which relates to registration of electors), subject to the provisions of the said Part III relating to registration in the appropriate electoral district.

5 (4) Every person who is enrolled under Part III of the Local Government Act 1974 (which relates to elections, electors, and electoral rolls) pursuant to the provisions of this Act on the roll for the district of a territorial authority or  
10 for a ward, riding, or community within such district shall, subject to section 84 of that Act (which relates to revision of rolls), continue to be enrolled on the roll for that district, ward, riding, or community unless and until he ceases to possess a qualification entitling him to be so enrolled pursuant to the other provisions of the said Part III.

15 (5) Every person who is enrolled on any roll (other than a roll under the Electoral Act 1956 or a roll under Part III of the Local Government Act 1974) pursuant to the provisions of this Act shall continue to be enrolled on that roll  
20 unless and until he ceases to possess a qualification entitling him to be so enrolled on that roll pursuant to the enactment which provides for that roll.

(6) Where any enactment makes provision for a closing time for registration or enrolment for voting at any election  
25 or any poll, that provision shall be taken to mean that it is the closing time for enrolling on the published current roll or, if there is more than one, on the last of the published current rolls for that election or poll.

30 (7) Section 50 of the Electoral Act 1956 is hereby consequentially repealed.

7. Special voting declarations to operate as new enrolments or as amendments to existing enrolments where circumstances so require—(1) Every special voting declaration made by a  
35 special voter who is not enrolled on the current roll for an election or a poll and who at the time of voting, is not enrolled on an unpublished roll for that election or poll and has not become so enrolled pursuant to section 6 of this Act or pursuant to section 8 of this Act shall operate as an enrolment of that special voter on that unpublished roll accordingly,  
40 unless it is shown to the satisfaction of the Returning Officer that the special voter is not eligible under section 4 of this Act to be enrolled for or to vote in that election or poll.

(2) The original copy or a photocopy of a special voting declaration or an extract therefrom shall substitute for an application or claim for enrolment by each special voter who is enrolled pursuant to subsection (1) of this section.

(3) The provisions of subsections (3), (4), and (5) of section 6 of this Act shall apply, with the necessary modifications, to electors who are registered or enrolled pursuant to subsections (1) and (2) of this section. 5

(4) Every special voting declaration made by a special voter who is enrolled on the current roll for an election or poll or on an unpublished roll for that election or poll shall, where the circumstances so require,— 10

- (a) Operate as a notification of a change of address:
- (b) Operate as a notification of a change of occupation:
- (c) Operate as a notification of a change in the given names 15  
or the surname of the elector or, as the case may be,  
of a more complete statement of the given names  
or the surname of the elector,

where any such particulars on the special voting declaration are different from those indicated on the current roll or the unpublished roll. 20

(5) The original copy or a photocopy of a special voting declaration or an extract therefrom shall substitute for any other notification of any change concerning an elector that is specified in subsection (4) of this section. 25

**8. Persons who will become entitled to vote may enrol in anticipation of qualifying—**(1) Any person whose qualifying period of residence in New Zealand or in a General electoral district, Maori electoral district, district of a territorial authority, ward, riding, community, or other district or area will have been attained by the date of an election or poll (in respect of which there is a qualification for voting based on residence) or, in the case of an election or poll held over several days, by the last of those days— 30

- (a) May make an application or claim for enrolment on the current roll for that election or poll or, if the time for such enrolments has passed, may make an application or claim for enrolment on any unpublished roll for that election or poll: 35
- (b) If he is not sooner enrolled, may vote as a special voter at such election or poll pursuant to section 4 and subsection (1) of section 5 of this Act. 40



(2) Any person who will attain the qualifying age by the date of an election or poll or, in the case of an election or poll held over several days, by the last of those days—

5 (a) May make an application or claim for enrolment on the current roll for that election or poll or, if the time for such enrolments has passed, may make an application or claim for enrolment on any unpublished roll for that election or poll:

10 (b) If he is not sooner enrolled, may vote as a special voter at such election or poll pursuant to section 4 and subsection (1) of section 5 of this Act.

(3) No enrolment made by virtue of subsections (1) or (2) of this section shall be invalid by reason only that the qualifying period of residence or the qualifying age of the  
15 elector had not been attained by the date of the enrolment.

(4) The provisions of subsections (3), (4), and (5) of section 6 of this Act shall apply, with the necessary modifications, to electors who are registered or enrolled pursuant to subsections (1) or (2) of this section.

20 **9. Votes not to be disallowed wholly or partly through errors or omissions of polling officials—**(1) At any election or poll, no vote shall be disallowed by reason only of the existence of any of the following circumstances:

25 (a) That the voter is enrolled on a relevant roll but is so enrolled in respect of another address if both his present address and the other address are addresses within the district or other area in respect of which the election or poll is held:

30 (b) That the voter is enrolled on a relevant roll but the particulars of that enrolment are not in all respects identical with his actual given names or surname or with his current occupation:

35 (c) That the voter is enrolled on a relevant roll but the particulars shown on the special voting declaration are not in all respects identical with those shown on the roll:

40 (d) That the special vote has been made in a polling place and the special voting declaration has been signed by the voter, but the polling official taking the declaration has not appended his signature as a witness, provided that there is an official mark or other evidence (written or verbal) that the vote was made in a polling place for that election or poll:

- (e) That the special vote has been made in a polling place, but the special voting declaration has not been signed by the voter, if there is an official mark and the signature of a polling official as a witness to an absent signature of the special voter or there is other evidence (whether written or verbal and, if written, whether written on the special voting declaration or not) to show that the vote was made in a polling place for that election or poll: 5
- (f) That the special vote has not been made in a polling place and the special voting declaration has not been signed by the voter, but there is a signature of a polling official as a witness to an absent signature of the special voter and that polling official is the Returning Officer or a Deputy Returning Officer or an Official authorised or engaged by the Returning Officer to handle special votes at institutions or other places. 10
- (g) That the special vote has not been made in a polling place and the special voting declaration has not been signed by the voter or by the witness, if the polling official who attended the voter is the Returning Officer or a Deputy Returning Officer or an official authorised or engaged by the Returning Officer to handle special votes at institutions or other places and that polling official acknowledges in writing that he did so attend the voter when the special voting declaration was written out, but not signed either by him or by the voter: 20
- (h) That the special vote has been made in a polling place but, through the supply of forms for special voting declarations having become exhausted, a Deputy Returning Officer in charge of the polling booth for special votes in that polling place made substitute arrangements for handling special votes thereat, and that is acknowledged in writing by the Deputy Returning Officer. 25
- (2) The provisions of subsection (1) of this section are without prejudice to the generality of the provisions of section 115 of the Electoral Act 1956 and the provisions of section 40 42 of the local Elections and Polls Act 1976 relating to errors or omissions of officials.

10. **Transfers of registration under the Electoral Act 1956 by persons who have been registered for the wrong electoral district**—(1) Section 43B of the Electoral Act 1956 is hereby amended by inserting, after subsection (2) the following subsection:
- 5 subsection:
- “(3) Notwithstanding the provisions of subsections (1) and (2) of this section, a Maori who is registered as an elector of a General electoral district or as an elector of a Maori electoral district contrary to his intention when he made an application for registration shall be entitled to fulfil his intention by transferring his registration to the electoral district of his choice if he is otherwise qualified to be registered as an elector of that electoral district—
- 15 (a) By making a new application for registration at any time before the close of the poll for an election, or
- (b) By making a special voting declaration pursuant to section 7 of the Voting Rights Protection Act 1978.”
- (2) The Electoral Act 1956 is hereby further amended by inserting, after section 48, the following section:
- 20 “48A. **Voting when registered for wrong electoral district**— Subject to the provisions of section 43B of this Act, any person who discovers that he has been registered on a roll for the wrong electoral district may transfer his registration to the electoral district for which he is qualified to be registered as
- 25 an elector—
- (a) by making a new application for registration at any time before the close of the poll for an election, or
- (b) by making a special voting declaration pursuant to section 7 of the Voting Rights Protection Act 1978.”
- 30 (3) No vote shall be disallowed in an election held under the Electoral Act 1956 by reason only that the voter has made a transfer of registration pursuant to sections 43B or 48A of that Act.