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Report to the Policy & Finance Committee
from Lloyd Bezett, Policy Analyst, Council Secretariat

Local Electoral Act 2001

1. Purpose

To report to the Committee the enactment and contents of the Local Electoral Act 2001 and Local Electoral Regulations 2001.

2. Background

- 2.1 The Local Electoral Act (**tabled**) replaces the Local Elections and Polls Act and came into force on 1 July 2001. The purpose of the new Act is to modernise the provision for the conduct of local elections and polls, and to provide sufficient legislative flexibility to accommodate new technologies and processes as they are developed through the use of regulations to prescribe matters of details that will be subject to future change. The Act provides a basic framework for the conduct of electoral matters, while allowing for local discretion in the choice of electoral system (ie. First Past the Post, Single Transferable Vote) or voting method (ie. postal voting, booth voting, kiosks, the Internet etc).

The Local Electoral Act also includes the following principles:

- (a) Fair and effective representation,
- (b) A reasonable opportunity for all to cast an informed vote, nominate candidates or be a candidate,
- (c) Public understanding and confidence in a regular election cycle, independently managed elections, freedom of choice and secrecy of vote, transparent systems and impartial dispute resolution mechanisms.

- 2.2 The Local Electoral Regulations 2001 (**tabled**) have also been enacted by Order in Council and also came into force on 1 July. The Regulations prescribe much of the detail of how each voting system operates, the approved voting methods, forms, declarations and duties of Electoral Officers. These Regulations are augmented by a Code of Good Practice for Electoral Officers issued by the local government sector.

2.3 The timetable for the 2001 Elections is provided at **Attachment 1**

3. **Comment**

The following comments explain the main aspects and changes in the Local Electoral Act.

3.1 *Electoral System an Option*

The Local Electoral Act allows a council to use either of the following electoral systems:

- (a) First Past the Post (FPP), or
- (b) Single Transferable Vote (STV) using the Meek method of counting votes.

The change of an electoral system is by resolution of the Council and must take place before 12 September in the year following an election. This will allow the electoral system to be taken into account when a council determines its constituencies and number of elected members for the next election.

Recent changes to health legislation provide that elections to District Health Boards (DHBs) from 2004 will be conducted by local authorities using STV (but FPP will be used by all local authorities for the elections in 2001). All other local authorities will have the option of adopting STV for the 2004 elections.

3.2 *Voting Method*

The Local Elections and Polls Act contained a presumption that booth voting will be used but gives councils the option of adopting postal voting. The Local Electoral Act enables councils to resolve to use methods other than postal voting (eg. Booths, electronic kiosks, the Internet). This is a decision taken by the local authority conducting the election (ie. the territorial authority), which means that a regional council election may be conducted under several voting methods.

3.3 *Electoral Petition*

Section 29 provides that electors may raise a petition, with a 5% threshold, to force a poll on whether or not to adopt a specified electoral system for the next two elections.

3.4 *Candidate Qualification*

After much debate nationally about changing the qualification for candidates to either New Zealand citizens or anyone able to vote the Justice and Electoral Select Committee recommended the status quo to the House. The Local Electoral Act continues provide that local authority candidates must be either:

- (a) A New Zealand citizen, or
- (b) A Commonwealth or Irish Citizen or a British protected person who was either enrolled or qualified and had applied to enrol as an elector at the commencement of the Local Elections and Polls Amendment Act 1982.

3.5 *Prohibition on Dual Candidacy and Membership*

The Local Electoral Act continues to prohibit candidates from standing and councillors from serving on a regional council and a territorial authority or community board at the same time. Regional councillors who wish to stand at bi-elections to fill extraordinary vacancies on territorial authorities or community boards must first resign from their regional council before the nomination form is submitted.

3.6 *Candidate Profiles*

The Act includes new provisions that allow the Electoral Officer to issue profiles of each candidate with the voting papers to assist the voters in making an informed choice. The profile, must be no longer than 150 words (or 150 words in each if supplied in English and Maori) and may include a passport sized photograph. Profiles will be prepared by the candidate and may only include information only about the candidate and his/her policies and intention if elected. Profiles must be supplied with the nomination form.

A profile may be sent back to the candidate for revision if it does not comply. Resubmitted profiles which fail to meet the requirements will be rejected. It should be noted that the Electoral Officer will only police compliance with the requirements of the legislation. It is not for the Electoral Officer to make a judgement about the accuracy of statements contained in the candidates' profiles.

3.7 *Candidates' Expenses Return*

The Act includes a comprehensive regime governing the maximum all candidates can spend on advertising and other promotional activities that take place within the election period. The election period is defined as the three months prior to the election (ie. commencing 14 July 2001). All expenditure related to campaign activities during the election period are to be counted; this includes activities paid for outside that period.

Expenditure limits are determined by the population of the local government area (eg. ward or constituency) being contested. While the Council will have to obtain a certificate from the Chief Statistician to confirm the populations in question, the expected impact of the Act is as follows:

Constituency	Max Candidates Expenses
Kapiti	\$30,000
Porirua	\$30,000
Wellington	\$60,000
Lower Hutt	\$50,000
Upper Hutt	\$20,000
Wairarapa	\$20,000

The names and addresses of all persons donating over \$1,000 must also be declared. Expenses returns will be available for public inspection for 6 months after the election

and then destroyed.

The Act includes strong penalties for failing to file an expenses return or knowingly filing a false return. Penalties include fines of up to \$10,000 and terms of imprisonment not exceeding two years.

3.8 *Advertising*

Section 113 of the Act provides that no-one, other than an organisation representing residents or ratepayers of the district, may publish or permit to be broadcast any advertisements for a candidate at an election without the written authorisation of the candidate or the candidate's agent. Furthermore, no person or organisation may publish or permit to be broadcast any advertisement for a candidate at an election without including a statement setting out the name and address of the person or organisation that directed its publication. This provision covers newspapers, periodicals, notices, posters, pamphlets, handbills, billboards, cards or any broadcast over radio or television.

The intention of this provision is to allow the public to be aware from whom the candidate advertising originates and make their own judgement about the credibility of the information and views expressed. The advertising covered can happen at any time – not just during the three month period before the election.

Publication of any news or commentary relating to an election in any media are not constrained by this section.

3.9 *Extraordinary Vacancies*

The provisions related to the filling of extraordinary vacancies have also been amended. If a vacancy happens within 12 months of an election a council may resolve to fill that vacancy by appointment or not fill it. If a vacancy occurs more than 12 months before an election the vacancy **must** be filled and by an election.

3.10 *Members Vacate Office*

The Act provides that elected members come into office either:

- (a) On polling day if the election is uncontested, or
- (b) On the day after the publication of the Official Declaration of Results.

Elected members who don't contest an election or fail to be returned go out of office on the day before their successor comes into office. In the case of uncontested elections this is the day before polling day and, in contested elections, this is the day of that the Official Declaration of Results is published.

Section 101Q(1) of the Local Government Act 1974 has been repealed so that the Chairperson of a regional council is to be treated as an ordinary member of the Council and does not continue in office until a successor is elected.

3.11 Candidates' Information Packs

At each election the Council produces a Candidate's Information Pack. This year the Pack has been produced with the assistance of the Electoral Working Party and will be issued to all persons intending to stand as candidates for election to the Wellington Regional Council when they apply for their nomination form.

3.12 Progressive Processing

A further change is that territorial authorities may now carry out progressive processing during the entire voting period, rather than the last 84 hours before the close of voting. For councils counting votes electronically progressive processing means scrutinising the electoral roll and processing the votes. A tally of votes for candidates cannot be produced until after the close of voting at 12 noon on 13 October 2001.

4. Recommendation

That the Policy and Finance recommend that Council receive the Report and note its contents.

Report prepared by:

Approved by:

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TED MAGUIRE
Council Secretary

Attachments

1. Election Timetable

Tabled

1. Local Electoral Act 2001
2. Local Electoral Regulations 2001