

Departmental Disclosure Statement

Electoral (Registration of Sentenced Prisoners) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Justice.

The Ministry of Justice certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

12 February 2020.

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Part One: General Policy Statement

This Bill makes changes to the Electoral Act 1993 (the **Act**) to enfranchise people who are serving a sentence of imprisonment for a term of less than 3 years and better facilitate participation in the electoral system of prisoners who are to be released from prison following a sentence of imprisonment for a term of 3 years or more.

Prisoner voting

The Bill amends the Act to allow prisoners who are serving a sentence of imprisonment for a term of less than 3 years to enrol to vote at elections and referendums if, under section 74 of the Act, they are qualified to be registered. People who are in prison for a sentence of imprisonment for 3 years or more, or a sentence of preventive detention, or a sentence of imprisonment for life, continue to be disqualified from being able to enrol.

Enrolling prisoners serving a sentence of less than 3 years

When a prisoner is received into prison to serve a sentence of imprisonment of less than 3 years, if that prisoner is qualified to vote, a prison manager must, as soon as is reasonably practicable, engage with the prisoner and ask them if they want to enrol. If that prisoner consents, the prisoner must provide their enrolment details to the prison manager and the prison manager must forward those details to the Electoral Commission for processing. Enrolment information will be used by the Department of Corrections only for the purposes of transmission to the Electoral Commission.

Enrolling prisoners serving a sentence of 3 years or more

When a prisoner sentenced to imprisonment for a term of 3 years or more is due to be released from prison, if that prisoner is qualified to vote, a prison manager must, as soon as is reasonably practicable, engage with the prisoner and ask them if they want to enrol. If that prisoner consents, the prisoner must provide their enrolment details to the prison manager and the prison manager must forward those details to the Electoral Commission for processing. Enrolment information will be used by the Department of Corrections only for the purposes of transmission to the Electoral Commission.

This Bill makes changes to the Electoral Act 1993 to enfranchise people who are serving shorter prison sentences, and better facilitate participation in the electoral system for people in, or recently released from prison.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<i>He Aha I Pērā Ai? The Māori Prisoners' Voting Report</i> , Waitangi Tribunal, August 2019.	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>Prisoner voting; Ministry of Justice; 8 November 2019.</p> <p>This will be published at:</p> <p>https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/</p> <p>http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/08.htm</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
<p>The Regulatory Impact Statement did not meet the threshold for receiving an independent opinion on quality from the Regulatory Impact Analysis Team based in the Treasury.</p> <p>The Regulatory Impact Statement was assessed internally by the Ministry of Justice Regulatory Impact Assessment Quality Assurance Panel. It was determined to meet the quality assurance criteria.</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES/NO
<p>The regulatory impact statement discussed one option as ensuring prisoners are re-enrolled on release from prison by changing the law to suspend prisoner's enrolment rather than remove them entirely. This would have involved creating a new suspended roll. This Bill achieves the policy of ensuring prisoners are re-enrolled in a slightly different way. This is by requiring Corrections to take all reasonable steps to collect and update the necessary information for eligible prisoners to be enrolled and then to transmit this information to the Electoral Commission. The Electoral Commission will then enrol the prisoners using this information.</p>	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
The Regulatory Impact Statement contain discussions of the costs and benefits of the policy proposals.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Ministry of Justice analysed the Bill and has not identified any obligations that conflict with the policies contained in the Bill. The Regulatory Impact Statement contains discussion of the international human rights implications of the policy proposals.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Ministry of Justice analysed the Bill and identified that the policy in this Bill improved the consistency with the Treaty of Waitangi of the policy in this area significantly compared to the status quo, although Treaty issues still remain. Substantial analysis of the Treaty of Waitangi implications of the policy is contained in the Regulatory Impact Statement.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES/NO
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Advice has been provided to the Attorney-General by the Crown Law Office. This advice will be available on the Ministry's website at https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
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New sections 86A-D allow Corrections to collect enrolment details from prisoners with their consent and send these to the Electoral Commission to facilitate their enrolment.

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
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The Office of the Privacy Commissioner was consulted on the draft Bill and had no concerns with the provisions.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
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The Electoral Commission and the Department of Corrections were consulted on the policy and the draft Bill.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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