

# Departmental Disclosure Statement

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## Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill

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; and
- 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 Department of Internal Affairs.

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

17 July 2023

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## Part One: General Policy Statement

The Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill (the Bill) is an omnibus Bill introduced under Standing Order 267(1)(a). That Standing Order provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. The single broad policy implemented by the amendments in this Bill is to reduce the voting age in local elections and polls from 18 to 16 years of age.

The Bill amends the Local Electoral Act 2001 so that persons aged 16 or 17 years are eligible to vote in local elections and polls; it does not change the voting age for parliamentary elections. The Bill establishes a new category of electors, named youth electors, and provides for 16-year-olds and 17-year-olds to be registered on a youth electoral roll.

However, although it lowers the voting age to 16 years for local elections and polls, the Bill does not change the age for—

- being elected or appointed as a member of an alcohol licensing trust or trustee of a community trust;
- voting in the election of members of an alcohol licensing trust;
- voting in the election of trustees of a community trust; and
- serving as a juror.

The relevant age for those activities remains 18 years.

The Bill also amends the Electoral Act 1993 and other Acts, including local Acts, for the purpose of implementing the policy. The Local Electoral Regulations 2001 are also amended.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>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?</b>	<b>YES</b>
<p>On Monday 21 November 2022, the Supreme Court issued its judgment in <i>Make It 16 Incorporated v Attorney General</i>.<sup>1</sup> The Court declared that the provisions of the Electoral Act 1993 and the Local Electoral Act 2001, which provide for a minimum voting age of 18 years, are inconsistent with the right in the New Zealand Bill of Rights Act 1993 to be free from age discrimination for persons 16 years and older. The case can be found <a href="#">here</a>.</p> <p>In May 2023 the Justice Committee reported back to Parliament after completing an inquiry into the Declaration of Inconsistency.<sup>2</sup> The Committee recommended, by majority:</p> <ul style="list-style-type: none"><li>▪ that the Government amend the Local Electoral Act 2001, and any other necessary laws and regulations, to provide for a minimum voting age of 16 years in local elections; and</li><li>▪ that the Government investigate lowering the minimum voting age in general elections to 16 years, taking into consideration the legal consequences of a change to the minimum voting age as set out in our report.</li></ul>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>NO</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>Regulatory analysis was not provided to inform the main policy decisions that led to this Bill. However, supplementary analysis was provided in June 2023 at the time Cabinet agreed to additional policy decisions.</p> <p>The supplementary analysis, dated 12 June 2023, was produced by the Department of Internal Affairs and can be found here: <a href="#">Regulatory Impact Statements - dia.govt.nz</a>.</p>	
<b>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?</b>	<b>NO</b>
<p>The RIS did not meet the threshold for RIA Team assessment.</p>	

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<sup>1</sup> *Make it 16 Inc v AG* [2022] NZSC 134

<sup>2</sup> Report of the Justice Committee, *Declaration of inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001*, May 2023.

<b>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?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
See <a href="http://dia.govt.nz">Regulatory Impact Statements - dia.govt.nz</a>	

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

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>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?</b>
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In determining whether to issue a declaration of inconsistency, the Supreme Court considered the United Nations Convention on the Rights of the Child which recognises an obligation to give consideration to the views of young people in matters that affect them.
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### Consistency with the government's Treaty of Waitangi obligations

<b>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?</b>
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The Crown has obligations to protect the rights affirmed to Māori under Te Tiriti o Waitangi when considering any reform to the electoral system, such as actively protecting the right of Māori to equitably participate in all aspects of the electoral process and exercise tino rangatiratanga individually and collectively.
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Māori youth voters will be able to participate in local elections.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>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?</b>	<b>YES</b>
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A Bill of Rights report is expected to be made available here: <a href="#">Bill of Rights compliance reports</a>   <a href="#">New Zealand Ministry of Justice</a> .
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
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Currently electors who fail to enrol to vote are liable upon conviction to a fine not exceeding \$100 on a first conviction and \$200 on a second or subsequent conviction. The Bill extends this offence to 16-and-17-year-old electors (new section 19ZL, Local Electoral Act).
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The Bill also extends certain offences in the Electoral Act 1993 (relating to use, supply and disclosure of electoral information) to include information about youth electors or provided for the purposes of a youth elector enrolment application.
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<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
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This Bill has been developed in consultation with the Ministry of Justice.
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## Privacy issues

<b>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?</b>	<b>YES</b>
<p>Clause 5 (new section 19ZL(3) and 19ZM, Local Electoral Act) enables 15-year-olds to voluntarily provide personal information to the Electoral Commission for the purposes of pre-registering as a youth elector.</p> <p>Clause 5 (new sections 19ZL and 19ZM, Local Electoral Act) requires 16- and 17-year-olds to provide this information to the Electoral Commission as part of compulsory enrolment. This is an extension of the current mechanism in the Electoral Act 1993 which requires anyone 18 years or older to provide this information, and enables voluntary registration for 17 year olds.</p> <p>Clause 5 (new sections 19ZN to 19ZV, Local Electoral Act) sets out processes for the Chief Executive of Oranga Tamariki, or a prison manager, to collect and forward personal information about youth offenders for the purposes of enrolling them as a youth elector, or having them removed from the youth electoral roll if they are disqualified from voting. These are equivalent provisions to sections 81, 86A, 86AB, 86B, and 86C of the Electoral Act 1993.</p> <p>The Bill also extends various provisions in the Electoral Act which relate to the collection, access to, correction of, use or disclosure of personal information that is collected for the purposes of electoral enrolment to include information collected for youth elector enrolment. These are set out in clause 5 (new section ZZL, Local Electoral Act).</p>	

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b>
<p>The Department of Internal Affairs had discussions with the Office of the Privacy Commissioner particularly about the availability of youth electors' personal information via electoral rolls, and other data sharing mechanisms in the legislation (for example, access to information for research purposes).</p> <p>The Office of the Privacy Commission provided the following comment,</p> <p style="padding-left: 40px;"><i>OPC understands the arguments about the importance of the availability of information about electors for electoral integrity. We also recognise that extending voting rights to young people involves treating them as independent and responsible citizens with the ability to make decisions on their own behalf. Even so, extending rights to particular groups can be compatible with recognising the particular needs or vulnerabilities of those groups. OPC encourages officials to consider whether any modifications to the existing settings for the electoral roll are needed for young electors, noting that their age may create particular vulnerabilities.</i></p> <p>The Independent Review of Electoral Law is currently considering matters relating to access to electoral roll information.</p>	

## External consultation

<b>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?</b>	<b>YES</b>
<p>Local Government New Zealand and Taituarā – Local Government Professionals' Electoral Reference Group were consulted. No other external consultation was possible due to the timeframe for introducing the Bill.</p>	

## Other testing of proposals

<b>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?</b>	<b>NO</b>
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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?	YES
The Bill allows the Electoral Commission to enrol 16-and-17-year-olds as electors. The provisions relating to enrolment and qualification criteria that will apply to these new electors are clearly set out in the Electoral Act and the Local Electoral Act (proposed new Part 1B).	

### 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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