

# Departmental Disclosure Statement

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Term of Parliament (Enabling 4-year Term) Legislation 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.

13 February 2025

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## Part One: General Policy Statement

The Term of Parliament (Enabling 4-year Term) Legislation Amendment 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 provide an option to extend, in specified circumstances, the maximum term of a Parliament to 4 years.

### *Purpose of Bill*

A key purpose of the Bill is to help improve law making. New Zealand is rare internationally in having a 3-year parliamentary term and the short electoral cycle is not always conducive to good law making. Providing an option to extend the maximum term of Parliament from 3 to 4 years at the start of a parliamentary term is intended to allow more time to develop and progress well-tested policy and legislation.

The standard maximum term of a Parliament will remain 3 years. The Bill makes extending the term of a Parliament to 4 years contingent on the requirement that the overall membership of the subject select committees is proportional to the party membership in the House of Representatives of the non-executive members (the **proportionality requirement**). The intention of this is that the term of a Parliament could only be extended if there are improved checks and balances on the Government via the subject select committees.

The Bill proposes to entrench the key provisions enabling a 4-year term of Parliament, alongside the existing provision that provides for a maximum 3-year term of a Parliament.

### *Commencement of Bill*

The key provisions in this Bill enabling a 4-year term of Parliament will only come into effect following a referendum where the majority of electors support this change. The question to be put to electors in a referendum and the wording of the 2 options for which electors may vote in response to the question are set out in the Bill.

### *Part 1 of Bill*

*Part 1* of the Bill amends the Constitution Act 1986. Section 17(1) of the Constitution Act currently provides that the term of a Parliament can run no longer than 3 years after the date fixed for the return of the writs issued for the preceding general election. The amendments allow the term of a Parliament to be extended to 4 years by a Proclamation issued by the Governor-General (on the advice of the Prime Minister) at the start of the term. A Proclamation can only be issued if the House of Representatives has passed a resolution within 3 months after the first meeting of Parliament after a general election, confirming that the proportionality requirement is satisfied.

### *Part 2 of Bill*

*Part 2* of the Bill amends the Electoral Act 1993, and includes an amendment to section 268(1)(a), which entrenches the current 3-year parliamentary term. The amendment to this provision entrenches the following provisions inserted in the Constitution Act 1986 by *Part 1* of the Bill relating to a 4-year parliamentary term:

- *new section 17(2)*, so far as it relates to 4 years for a term of Parliament; and
- *new section 17(4)*, relating to the proportionality requirement for a 4-year term of Parliament.

## 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>The Independent Electoral Review (IER) panel considered the length of the parliamentary term. <i>Final Report of the Independent Electoral Review</i>, (November 2023). <a href="https://www.justice.govt.nz/assets/Documents/Publications/Independent-Electoral-Review-Final-Report-November-2023.pdf">https://www.justice.govt.nz/assets/Documents/Publications/Independent-Electoral-Review-Final-Report-November-2023.pdf</a></p> <p>The Constitutional Advisory Panel Report also considered the term of Parliament. <i>New Zealand's Constitution: A report on a Conversation: He Kōtuinga Kōrero mō Te Kaupapa Ture o Aotearoa</i>, (November 2013). <a href="https://www.justice.govt.nz/assets/Constitutional-Advisory-Panel-Full-Report-2013.pdf">https://www.justice.govt.nz/assets/Constitutional-Advisory-Panel-Full-Report-2013.pdf</a></p>	

### 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>
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### 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>A Regulatory Impact Statement '<i>Enabling a four-year term of Parliament</i>' was finalised on 25 September 2024 and submitted with the paper seeking policy approvals for the proposal [CAB-24-MIN-0461.01]. A copy of the RIS will be available at: <a href="https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/">https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/</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 Ministry for Regulation RIA team assessment. The RIS was assessed by a panel with representatives from the Ministry of Justice and the Department of Internal Affairs. The panel considers that it "partially meets" the Quality Assurance criteria.</p>	
<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>

### 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>
The Regulatory Impact Statement contains discussions of the potential costs and benefits of the policy proposals.	

<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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The Ministry of Justice analysed the Bill and did not identify any obligations that conflict with the policies contained in the Bill.
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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 Ministry of Justice analysed the Bill and did not identify any inconsistency with the rights and interests of Māori protected by the Treaty of Waitangi.
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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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Advice will be provided to the Attorney-General by the Crown Law Office. This advice will be available on the Ministry's website at <a href="https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/">https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/</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>NO</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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### 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>NO</b>
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### 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>
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Some public consultation on the term of Parliament in general was undertaken as part of wider electoral and constitutional panel consultation (see 2.1 above). No public consultation has been undertaken on the specific 'variable' term of Parliament proposal as reflected in the Bill.
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The Ministry of Justice engaged with the following organisations on the policy to be given effect by this Bill: Office of the Clerk, Crown Law, Parliamentary Counsel Office, Legislation Design and Advisory Committee, the Electoral Commission, Department of Internal Affairs, Ministry for Regulation, the Public Service Commission, Te Puni Kōkiri and the Treasury.
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### 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?	NO
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### Powers to make delegated legislation

<b>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?</b>	<b>NO</b>
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<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>NO</b>
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### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>YES</b>
Some settings in Clause 5(2) of the Bill are inconsistent with fundamental legal and constitutional principles. More details on this are outlined in the Regulatory Impact Statement. The Proclamation outlined in Clause 5(2) is not considered to be a legislative instrument.	