

Supplementary Departmental Disclosure Statement

Electoral (Māori Electoral Option) Legislation Bill

A supplementary departmental disclosure statement for a Bill the government is proposing to amend seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill in amended form.

It highlights material changes to previous disclosures relating to:

- 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.

The original disclosure statement for the Electoral (Māori Electoral Option) Legislation Bill, dated 5 May 2022, which can be found at this link: [Electoral \(Māori Electoral Option\) Legislation Bill – NZ Legislation: Disclosures](#)

This supplementary 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.

4 November 2022

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The Main Areas of Change to the Original Disclosures

This is a supplementary disclosure statement for the Electoral (Māori Electoral Option) Legislation Bill.

A supplementary disclosure statement supplements the original disclosure statement for the Bill by reporting the additions and changes that would need to be made to the original disclosure statement to accurately reflect the Bill with the proposed government amendments incorporated. These amendments will be introduced by Supplementary Order Paper to the Bill.

Where the Bill now also incorporates changes made by a select committee of the House, the supplementary disclosure statement will note these if relevant but will not explain them further.

The main areas of change to the original disclosure statement include:

- inserting a pre-election exception period of three months prior to polling day for Parliamentary and local general elections, which will prevent Māori voters from transferring between the general and Māori rolls during this period; and
- providing that, where practicable, the Electoral Commission (the Commission) is required, as part of an election update inquiry, to inform Māori voters whether they are enrolled on the Māori or General roll, and that they are entitled to change rolls at least three months before polling day for Parliamentary and local general elections.

Part One: General Policy Statement

The single broad policy implemented by the Bill is to facilitate the more effective operation of the Māori representation models that apply to the electoral processes for Parliament and local authorities.

The Bill replaces the current four (4) month option period for the Māori electoral option with a continuous option model. The continuous option model gives Māori the option of changing from the Māori electoral roll to the general electoral roll or from the general electoral roll to the Māori electoral roll at any time and without restriction as to the number of times they can choose to exercise the option.

The Bill as introduced contains an exception to the 'continuous' option model for the period leading up to a Parliamentary by-election. Under this exception, Māori electors residing in the relevant electorate cannot transfer rolls in the period between the date on which a notice of vacancy for the electorate is published by the Speaker and polling day (except when local elections are being held at the same time).

The Government's Supplementary Order Paper introduces two further exception periods during which Māori electors will not be able to move between electoral rolls:

- For triennial local elections (for councils with Maori wards) the ability to change rolls will be paused for the three-month period leading up to the polling day
- For parliamentary general elections, the ability to change rolls will generally be paused for the three-months leading up to polling day. Because the rules around calling a general election allow for some flexibility by the Prime Minister, the period when changing the roll is paused will have the following features:
 - where a three-month period is not possible the exception period will be the period beginning on the day after the date on which the polling day is announced and ending on polling day;
 - if the Prime Minister announces a change in polling date after the exception period has already begun and that announcement is of a new date that is less than three months away, the existing exception period prior to the new announcement would be extended to end on the new polling day
 - if the Prime Minister announces a change in polling date after the exception period has already begun and that announcement is of a new date that is more than three months away:
 - any existing exception period already underway would still be valid, but would end on the day of the Prime Minister's announcement; and
 - a new exception period would begin three months before the new polling day, under the standard rules.

If practicable, the Electoral Commission will be required to send out notification of enrolment details at least three months prior to the beginning of the exception period for both Parliamentary and local general elections, in order to give Māori electors time to change rolls.

Changes recommended by select Committee

The Bill also incorporates the following changes, recommended by the Justice Committee:

- Clause 15 of the bill is deleted. This clause would have amended section 21 of the Electoral Act to enable an elector who had exercised the Māori option in an election period to vote as a special voter. The Electoral Act and Local Electoral Act already allow voters who qualify as electors but are not entered on the roll to vote by special vote, so these amendments are unnecessary
- The new section 78A(3)(b) is amended to ensure consistency with sections 88 and 98(6) of the Electoral Act, which provide that the Electoral Commission may not register an

elector or remove a name from the roll if the application is received between the day after polling day and the day that the writ is returned, to uphold the integrity of the vote.

- The definition of Māori electoral population is amended to specify that the definition refers to voters registered for either Māori or General electoral districts, or people named on the dormant roll.

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
Electoral (Māori Electoral Option) Legislation Bill - Final report of the Justice Committee, 1 November 2022 Electoral (Māori Electoral Option) Legislation Bill - New Zealand Parliament (www.parliament.nz)	

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
Timing and frequency of the Māori Electoral Option” by the Ministry of Justice dated 11 November 2021. A copy of this RIS is available for public access on the Ministry of Justice website and the Treasury RIA website UPDATED with Supplementary Annex: Supplementary Order Paper to the Electoral (Māori Electoral Option) Legislation Bill, dated 4 November. A copy of the Supplementary Annex to the RIS will be made available for public access on the Ministry of Justice website and the Treasury RIA website.	

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
The original Regulatory Impact Statement and the Supplementary Annex to the Regulatory Impact Statement did not meet the threshold for receiving an independent opinion on quality from the Regulatory Impact Team based in the Treasury. 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. The Supplementary Annex Regulatory Impact Statement was assessed internally by the Ministry of Justice Regulatory Impact Assessment Quality Assurance Panel. It was determined to partially meet the quality assurance criteria.	

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?	NO
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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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected 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 Supplementary Order Paper and did not identify any international obligations that conflict with the policies contained in the Bill.

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?

Targeted engagement with Māori groups, academics and individuals supported the removal of barriers to the exercise of the Māori electoral option. The Crown is under a Treaty obligation to actively protect Māori citizenship rights and, in particular, existing Māori rights to political representation conferred under the Electoral Act 1993.

Due to time constraints, the Ministry has not been able to engage further with these Māori groups on the proposed new exception periods introduced in the Supplementary Order Paper.
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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
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In respect of the Bill as introduced, the Crown Law Office provided advice to the Attorney-General. This advice is 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/ .

No further advice has been provided on the changes introduced in the Supplementary Order Paper.

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?	[NO]
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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
<p>There was targeted engagement with Māori groups, academics and individuals seeking their views on the timing and frequency of the Māori Electoral Option. This engagement occurred between late-June 2021 and mid-August 2021. The majority of people engaged with supported voters of Māori descent being able to change between the General electoral roll and the Māori electoral roll at any time.</p> <p>The Justice Committee received 121 submissions on the Bill. Most of these submissions were in support of the continuous option introduced by the Bill. Some submissions supported the purpose of the Bill but recommended some further amendments to the Bill.</p> <p>Due to time constraints, the Ministry has not been able to engage further with any Māori groups, academics and individuals on the proposed new exception periods introduced in the Supplementary Order Paper.</p>	

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?	YES
<p>The Electoral Commission and the Department of Internal Affairs was consulted on the policy and the draft Supplementary Order Paper.</p>	

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 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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