



Electoral Amendment Act 2020

Public Act 2020 No 2
Date of assent 10 March 2020
Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Electoral Amendment Act 2020.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Electoral Act 1993 (the **principal Act**).

Part 1

Amendments to principal Act

4 Section 60 amended (Who may vote)

After section 60(f), insert:

- (g) any person present in New Zealand who—
 - (i) is qualified to be registered as an elector of the district; and
 - (ii) applies, on polling day, for registration as an elector of the district.

5 Section 83 amended (Application for registration)

After section 83(3), insert:

- (3A) The Electoral Commission may treat a special vote declaration as an application for registration as an elector if the declaration—
 - (a) is in a form approved by the Electoral Commission for use as an application for registration as an elector; and
 - (b) is completed by the declarant with the details specified in subsection (2)(a), (b), (c), and (h), and signed.

6 Section 88 amended (Applications received after issue of writ)

- (1) Replace section 88(1) with:
 - (1) If a writ has been issued requiring the conduct of an election in a district, then the Electoral Commission may not, at any time in the period beginning on the day after polling day and ending on the day of the return of the writ, register an application for registration as an elector that the Electoral Commission receives—
 - (a) on polling day from a person outside New Zealand; or
 - (b) after polling day from any person.
 - (1A) Subsection (1) is subject to subsections (2) to (4).
- (2) In section 88(2), after “before”, insert “or on” in each place.
- (3) Replace section 88(3)(c) with:
 - (c) the person may, at that election,—
 - (i) be issued with a ballot paper in accordance with section 167, if the rolls can be marked (either manually or by electronic means) to indicate the person has applied to vote; or
 - (ii) be issued with a special vote ballot paper in any other case.
- (4) After section 88(3), insert:
 - (4) If a person who is present in New Zealand applies on polling day for registration as an elector of a district in which an election is being conducted, the Electoral Commission—

- (a) may issue the person with a special vote ballot paper; and
- (b) must, if the Electoral Commission subsequently determines that the person is qualified to be registered as an elector, enter the name of the person on the electoral roll.

7 Section 98 amended (Removal of names from roll by Electoral Commission)

- (1) In section 98(5), delete “the day before”.
- (2) In section 98(6), after “beginning on”, insert “the day after”.

8 Section 99 amended (Notice of alterations to roll)

Replace section 99(4) with:

- (4) Where the name of a person is removed or entered, as the case may be, in the period beginning on the day after writ day and ending on polling day, the notice required by subsection (1) or (2) must immediately be delivered to the person personally or sent to the person by post.

9 Section 109 amended (Dormant roll)

- (1) In section 109(3) and (5), delete “the day before”.
- (2) In section 109(4), after “residence”, insert “last shown on the roll”.

10 Section 123 replaced (Copies of rolls for Returning Officer)

Replace section 123 with:

123 Copies of rolls, etc, for Returning Officer

- (1) The Electoral Commission—
 - (a) must supply to the Returning Officer for an electoral district—
 - (i) as many copies as the Returning Officer may require of the main roll and supplementary rolls for the district and any other district; and
 - (ii) a copy of the list of post-writ day deletions referred to in section 98(5); and
 - (b) may supply to the Returning Officer for an electoral district any other information that the Electoral Commission holds that may assist with the identification of electors.
- (2) Despite sections 105 to 107 and 110, the Electoral Commission may modify the form or format of any copies of rolls or information supplied under this section if that is necessary to facilitate the use of technology for finding an elector on a roll, or for the scrutiny of the rolls under this Act.

11 Section 139 amended (Contents of writ)

- (1) Replace section 139(2) with:

- (2) Polling day must not be earlier than the 20th day after nomination day.
- (2) In section 139(4), replace “50th” with “60th”.

12 Section 151A amended (Interpretation)

In section 151A(b), replace “51st” with “61st”.

13 Section 155 amended (Power to appoint polling places)

Repeal section 155(3).

14 New section 155A inserted (Use of licensed premises as polling places)

After section 155, insert:

155A Use of licensed premises as polling places

- (1) Any licensed premises may be appointed as a polling place under section 155, but only if—
 - (a) alcohol will not be available for sale, supply, or consumption in that part of the licensed premises where voting papers are issued; and
 - (b) that part of the licensed premises where voting papers are issued may be accessed without passing through any other part of the licensed premises in which alcohol is being consumed.
- (2) In this section, **alcohol** and **licensed premises** have the same meanings as in section 5(1) of the Sale and Supply of Alcohol Act 2012.

Compare: Commonwealth Electoral Act 1918 (Aust) s 205

15 Section 163 amended (Ballot box to remain closed during poll)

After section 163(4), insert:

- (5) In this section, **ballot box** means a box in which ballot papers issued in accordance with section 167 are deposited.

16 Section 174 amended (Preliminary count of votes cast in polling place)

Replace section 174(1) with:

- (1) The manager of every polling place must, as soon as practicable after the close of the poll, in the presence of any scrutineers (including those lawfully in the polling place under any other Act) and the polling place officials, but of no other person, arrange for a preliminary count of the votes cast in that polling place to be conducted in accordance with this section—
 - (a) at the polling place; or
 - (b) at any other place designated by the Electoral Commission.
- (1A) The Electoral Commission may, under subsection (1)(b), designate for a polling place some other place where the preliminary count of votes cast in the polling place may be conducted only if the Commission is satisfied that it is

necessary to do so because the preliminary count of votes will not be able to be conducted at the polling place in the absence of unauthorised persons.

- (1B) If the Electoral Commission designates for a polling place some other place where the preliminary count of votes cast in the polling place may be conducted,—
- (a) the Returning Officer must—
 - (i) give notice to the constituency candidates or their scrutineers of that place at which the preliminary count of votes will be conducted (the **counting place**); and
 - (ii) afford to the scrutineers present at the polling place the opportunity to accompany the ballot boxes to the counting place; and
 - (b) all ballot boxes containing ballot papers must be taken from the polling place to the counting place accompanied by—
 - (i) a polling place official appointed as an official for the polling place; and
 - (ii) any scrutineers wishing to take up the opportunity afforded by paragraph (a)(ii).

17 Section 195 and cross-heading replaced

Replace section 195 and the cross-heading above section 195 with:

Polling disruptions

195 Meaning of unforeseen or unavoidable disruption

- (1) In sections 195A, 195B, and 195D, an **unforeseen or unavoidable disruption** means a disruption that is likely to—
- (a) prevent voters voting at a polling place; or
 - (b) pose a risk to the proper conduct of an election.
- (2) An unforeseen or unavoidable disruption includes, but is not limited to, a disruption arising as a result of—
- (a) a natural disaster;
 - (b) adverse weather conditions;
 - (c) a riot or disorder, or a threat of a riot or disorder;
 - (d) a terrorist act (as defined in section 5 of the Terrorism Suppression Act 2002);
 - (e) an epidemic notice given under section 5(1) of the Epidemic Preparedness Act 2006 being in force;
 - (f) a cyberattack on the Electoral Commission’s electronic operating systems.

195A Adjournment of poll on polling day

- (1) The Chief Electoral Officer may direct that the voting at 1 or more polling places on polling day be adjourned because of an unforeseen or unavoidable disruption.
- (2) Voting may be adjourned on the direction of the Chief Electoral Officer for—
 - (a) an initial period of no more than 3 days; and
 - (b) 1 or more subsequent periods of no more than 7 days each.
- (3) Before making a direction under subsection (2)(b) adjourning the voting for a subsequent period, the Chief Electoral Officer must—
 - (a) consult—
 - (i) the Prime Minister; and
 - (ii) the Leader of the Opposition; and
 - (iii) any person or organisation that in the Chief Electoral Officer's opinion is able to give information about the scale and duration of the unforeseen or unavoidable disruption; and
 - (b) be satisfied that the adjournment is necessary in all the circumstances.
- (4) The Chief Electoral Officer must, as soon as is reasonably practicable after making a direction under subsection (2)(a), notify the following persons of the adjournment:
 - (a) the Prime Minister; and
 - (b) the Leader of the Opposition.
- (5) The Chief Electoral Officer must, as soon as is reasonably practicable after making a direction under subsection (2)(a) or (b), give public notice of the adjournment in any manner that the Chief Electoral Officer considers appropriate.
- (6) If voting at 1 or more polling places is adjourned under this section for any number of days, the day on or before which the writ must be returned is postponed by the same number of days.

195B Alternative voting processes to respond to polling disruption

- (1) This section applies if—
 - (a) an unforeseen or unavoidable disruption occurs at 1 or more advance polling places that may reasonably be expected to continue until polling day; or
 - (b) an unforeseen or unavoidable disruption occurs at 1 or more polling places on polling day.
- (2) The Chief Electoral Officer may manage an unforeseen or unavoidable disruption to which this section applies by using alternative voting processes if the

Chief Electoral Officer considers that doing so is the most appropriate and efficient way to address the disruption.

- (3) The alternative voting processes referred to in subsection (2) may modify or adapt any requirements, processes, or procedures specified by or prescribed under this Act (for example, the Chief Electoral Officer may extend the polling hours, or extend to voters in New Zealand the procedure for the electronic issue of voting papers that is available to voters outside New Zealand).
- (4) In this section, **advance polling place** has the same meaning given to it in section 197A(10).

195C Matters Chief Electoral Officer must have regard to when exercising discretion under section 195A or 195B

When considering whether to exercise his or her discretion under section 195A or 195B, the Chief Electoral Officer must have regard to the following matters:

- (a) the need to ensure the safety of voters and electoral officials; and
- (b) the need to ensure that the election process is free from corrupt or illegal practices; and
- (c) the need to ensure that the election process is concluded in a timely and expeditious manner.

195D Deferral of release of information about result of preliminary count of votes at polling place if close of poll delayed

- (1) If, as a result of an unforeseen or unavoidable disruption, the close of the poll at any polling place is delayed, the Chief Electoral Officer must not disclose any information about the results of a preliminary count of votes cast at that polling place, or any other polling place, until the close of the poll at all polling places.
- (2) However, the Chief Electoral Officer may disclose that information if he or she considers that the disclosure of the information will not unduly influence—
 - (a) the overall result of the poll in an electoral district; or
 - (b) the number of seats in Parliament that a party is entitled to be allocated under sections 191 and 192, and the selection of list candidates under section 193.
- (3) A person commits an offence and is guilty of a corrupt practice if—
 - (a) the person knows that,—
 - (i) as a result of an unforeseen or unavoidable disruption, the close of the poll at any polling place has been delayed; and
 - (ii) the Chief Electoral Officer has not disclosed the results of a preliminary count of votes cast at that polling place or any other polling place; and
 - (b) the person discloses information about those results.

- (4) Subsection (3) does not apply to disclosures of information between—
- (a) electoral officials; or
 - (b) members of the Electoral Commission; or
 - (c) electoral officials and members of the Electoral Commission.

195E Interfering with or influencing voters at resumed poll

If, under section 195A, voting at any polling place is adjourned, then, when polling resumes at that polling place or any alternative polling place and until the close of the poll at that place,—

- (a) section 197(1)(i) and (j) applies with all necessary modifications as if references in those paragraphs to any polling place were references to the polling place at which polling has resumed; and
- (b) section 197A applies with all necessary modifications as if—
 - (i) references in that section to an advance voting place were references to the polling place at which polling has resumed; and
 - (ii) references in that section to a buffer zone for the advance voting place were references to the buffer zone for the polling place at which polling has resumed.

Part 2

Related amendments and repeals

Amendments to Electoral Regulations 1996

18 Related amendments to Electoral Regulations 1996

Sections 19 to 25 amend the Electoral Regulations 1996.

19 Regulation 12 amended (List of late enrolments)

- (1) Replace regulation 12(1) with:
 - (1) As soon as practicable after polling day, the Electoral Commission must send to the Returning Officer a list of those persons whose names have been entered on the electoral roll for the district after writ day and by the end of polling day under section 88(3) or (4) of the Act.
- (2) In regulation 12(2), replace “section 88(3)” with “section 88(3) or (4)”.

20 Regulation 21 amended (Issue of special voting papers)

Revoke regulation 21(6).

21 Regulation 27 amended (Voting by special voter)

- (1) Revoke regulation 27(3A) and (3B).

- (2) In regulation 27(4), delete “or as required by subclauses (3) to (4) of regulation 22”.

22 Regulation 36 amended (Duties of Electoral Commission)

After regulation 36(2)(f), insert:

- (fa) must, where section 60(g) of the Act may be applicable, check the applications for registration received by the Electoral Commission on polling day:

23 Regulation 49 amended (Parcels of spoilt ballot and voting papers, and other papers)

In regulation 49(1), (2), and (3), delete “in form 20 or form 21” in each place.

24 Regulation 52 replaced (Allowance or disallowance of votes of members of Defence Force)

Replace regulation 52 with:

52 Allowance or disallowance of votes of members of Defence Force

- (1) The Returning Officer for the district in respect of which a special vote has been cast in an election by a member of the Defence Force must allow the special vote if—
- (a) the member of the Defence Force has made a declaration that the Returning Officer is satisfied establishes the member’s right to vote in the Returning Officer’s district at the election, and has signed that declaration; and
 - (b) a witness has signed the declaration, or the Returning Officer is otherwise satisfied that the declaration was signed by the member before a witness.
- (2) If a special vote cast by a member of the Defence Force is not allowed under subclause (1), the Returning Officer must disallow the special vote.

25 Regulation 64A amended (Parcels of unused and spoilt ballot and voting and other papers)

In regulation 64A(1) and (2), delete “in form 19 or form 20 or form 21” in each place.

Legislative history

29 July 2019	Introduction (Bill 162–1)
6 August 2019	First reading and referral to Justice Committee
19 December 2019	Reported from Justice Committee (Bill 162–2)
13 February 2020	Second reading
19 February 2020	Committee of the whole House
4 March 2020	Third reading
10 March 2020	Royal assent

This Act is administered by the Ministry of Justice.