



Electoral Amendment Regulations (No 2) 2022

Cindy Kiro, Governor-General

Order in Council

At Wellington this 29th day of August 2022

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 267 of the Electoral Act 1993 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Electoral Amendment Regulations (No 2) 2022.

2 Commencement

These regulations come into force on 1 October 2022.

3 Principal regulations

These regulations amend the Electoral Regulations 1996.

4 New regulation 19A inserted (Marking or signing special voting papers electronically)

After regulation 19, insert:

19A Marking or signing special voting papers electronically

- (1) This regulation applies to a person who—
 - (a) is a special voter under regulation 24B or under Part 3 or 4; and
 - (b) intends to complete and mark or sign a special voting paper and transmit it to the Electoral Commission electronically.
- (2) This regulation also applies to a person who is witnessing a declaration made by a person described in subclause (1).
- (3) A person to whom this regulation applies may take a physical action to—
 - (a) mark the special voting paper electronically; or
 - (b) sign the special voting paper by producing an electronic signature, in a manner acceptable to the Electoral Commission, that—
 - (i) represents the person's signature; and
 - (ii) adequately confirms the person's approval of the information to which the signature relates.
- (4) In this regulation, **special voting paper** means any or all of the following:
 - (a) a ballot paper;
 - (b) a voting paper;
 - (c) a declaration.

5 Regulation 21 amended (Issue of special voting papers)

- (1) Replace regulation 21(5) with:
- (5) The Issuing Officer must—
 - (a) issue together with the ballot paper—
 - (i) a declaration in a form that the Electoral Commission has approved and—

- (A) an envelope that contains 2 self-contained compartments and is addressed by the Issuing Officer to the Returning Officer for the district for which the vote is issued; or
- (B) 2 or more envelopes (allowing the declaration to be enveloped separately from the ballot paper and any voting papers) that, except in the case of internal envelopes, are each addressed by the Issuing Officer to the Returning Officer for the district for which the vote is issued; and
 - (ii) any voting paper required to be issued under any enactment; and
 - (iii) an instruction sheet on special voting, unless the ballot paper is being issued to the voter in person; and
- (b) place the Issuing Officer's official mark on—
 - (i) the ballot paper; and
 - (ii) any voting paper; and
 - (iii) the declaration form; and
- (c) ensure that, if the consecutive number printed on the ballot paper or voting paper can be read without the aid of technology, a piece of gummed paper is firmly fixed over the consecutive number so as to conceal the number effectively.

- (2) Revoke regulation 21(8).

6 Regulation 23A amended (Telephone dictation of vote by special voter with disability)

Replace regulation 23A(3)(b)(ii) with:

- (ii) ending at noon New Zealand time on polling day.

7 Regulation 23B amended (Appointment of Issuing Officers for dictation voting)

Replace regulation 23B(1)(a) with:

- (a) issuing special votes to a person whose request under regulation 23A(2), 24B(2)(a), 45B(2), or 57(2)(c) to vote by dictation has been granted by the Electoral Commission; and

8 Regulation 24B amended (Special vote by person affected by significant event)

- (1) Replace regulation 24B(2) with:

- (2) A person to whom this regulation applies may request the Electoral Commission to have the papers referred to in regulation 21 issued to the person—
- (a) by dictation, if for the particular election a system allowing special votes by dictation is made available by the Electoral Commission; or

- (b) electronically.
- (2) Revoke regulation 24B(6).
- (3) In regulation 24B(8), delete “or by facsimile”.
- (4) In regulation 24B(9), replace “behalf of the Electoral Commission” with “behalf of the Electoral Commission,”.
- (5) In regulation 24B(9), delete “, or by facsimile in accordance with subclause (8),”.
- (6) In regulation 24B(9)(a), delete “, if received electronically”.
- (7) Replace regulation 24B(9)(c) and (d) with:
 - (c) after taking all reasonable steps to preserve the secrecy of the ballot,—
 - (i) place the ballot paper, any voting papers, and the declaration in an appropriate special voter envelope or appropriate compartments of a special voter envelope, mark the envelope with the Electoral Commission’s official mark, and then arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) place the ballot paper, any voting papers, and the declaration in a box or receptacle that is specially provided for the votes of special voters and then deal with all papers in accordance with regulations 34 to 42 with any necessary modifications (including that the references in those regulations to a Returning Officer must be read as references to an Electoral Commissioner or electoral official).

9 Regulation 27 amended (Voting by special voter)

- (1) Replace regulation 27(3) with:
- (3) Where the elector does not apply in person for a special vote, the elector must, after completing the declaration, place the declaration in—
 - (a) the compartment of an envelope marked “Declaration” and then seal the compartment; or
 - (b) an envelope marked “Declaration” and then seal the envelope.
- (2) Replace regulation 27(5) with:
- (5) The ballot paper and any voting papers must then be placed in—
 - (a) the compartment of an envelope marked “BALLOT AND/OR VOTING PAPERS” and then the compartment must be sealed; or
 - (b) an envelope marked “BALLOT AND/OR VOTING PAPERS” and then the envelope must be sealed.

10 Regulation 32 amended (Returning Officer to extract declaration form)

Replace regulation 32(1) with:

- (1) At the first opportunity after receiving an envelope containing a special vote, the Returning Officer for the district for which the vote was issued must extract the declaration form from—
 - (a) the declaration compartment of the envelope; or
 - (b) the envelope.

11 Regulation 33 replaced (Declaration form enclosed in ballot and voting paper compartment)

Replace regulation 33 with:

33 Returning Officer may open envelope or envelope compartments if papers incorrectly enclosed or not enclosed

- (1) A Returning Officer may open an envelope, or the compartments of an envelope, to correct the placement of papers if the Returning Officer has reason to believe that—
 - (a) a ballot paper or voting paper has been incorrectly placed in an envelope, or the compartment of an envelope, marked “Declaration”; or
 - (b) a declaration has been incorrectly placed in an envelope, or the compartment of an envelope, marked “BALLOT AND/OR VOTING PAPERS”.
- (2) A Returning Officer may open the envelope, or a compartment of an envelope, to—
 - (a) remove from the envelope or compartment a paper that the elector, before sealing the envelope or compartment, incorrectly included;
 - (b) place the paper in the correct envelope or compartment.
- (3) After taking any of the actions described in subclause (1) or (2), the Returning Officer must—
 - (a) immediately reseal the envelope or compartment that was opened and do everything possible to preserve the secrecy of the ballot; and
 - (b) endorse on the envelope or compartment the words “Opened pursuant to regulation 33”; and
 - (c) sign the endorsement.
- (4) This regulation applies despite any other provision in these regulations.

12 Regulation 34 amended (Disallowance of special votes received late)

- (1) Replace regulation 34(1) with:
 - (1) A Returning Officer must disallow a special vote issued for the Returning Officer’s district under this Part if the envelope containing the vote is received by the Returning Officer—
 - (a) later than 7 pm on the 13th day after the polling day for a general election:

- (b) later than 7 pm on the tenth day after polling day for a by-election.
- (2) Replace regulation 34(2)(b)(iii) with:
 - (iii) regulation 50(3)(a) or (c); or
- (3) Replace regulation 34(2)(c)(iii) with:
 - (iii) regulation 63A(3)(a), (b), or (d).
- (4) Replace regulation 34(3) with:
- (3) If a Returning Officer disallows a special vote under this regulation, the envelope or the compartment of an envelope containing the ballot and voting papers must be left unopened and the Returning Officer must set aside the envelope after having written across it and across the declaration form the words “Disallowed, received late”.

13 Regulation 40 replaced (Parcels of forms and envelopes)

Replace regulation 40 with:

40 Parcels of forms and envelopes

After the scrutiny of the rolls, the Returning Officer must make up into separate parcels—

- (a) all declaration forms:
- (b) all disallowed envelopes that have not been opened, including those that have an unopened compartment containing any ballot paper and voting papers.

14 Regulation 41 amended (Opening of envelopes containing votes allowed)

In regulation 41, after “voting paper”, insert “envelopes or”.

15 Regulation 44A amended (Application for special vote by persons outside New Zealand)

After regulation 44A(3)(c), insert:

- (d) by dictation, under regulation 45B.

16 Regulation 45 amended (Issue of special voting papers)

- (1) In regulation 45(1), delete “at any time before 4 pm local time on the day before polling day”.
- (2) After regulation 45(1), insert:
 - (1A) The issue of documents under subclause (1) in person or by post must be completed before 4 pm local time on the day before polling day.

17 New regulation 45B inserted (Dictation of vote by overseas electors with disability)

After regulation 45A, insert:

45B Dictation of vote by overseas electors with disability

- (1) This regulation applies to a person who—
 - (a) is qualified to vote at an election in any district; and
 - (b) is outside New Zealand; and
 - (c) is—
 - (i) blind; or
 - (ii) partially blind and is unable to mark the ballot paper without assistance; or
 - (iii) has another physical disability and is unable to mark the ballot paper without assistance.
- (2) A person to whom this regulation applies may request to vote by dictation if, for the particular election, a system allowing special votes by dictation is made available by the Electoral Commission.
- (3) A request must be made during the period—
 - (a) beginning on the day after writ day; and
 - (b) ending no later than noon New Zealand time on polling day.
- (4) On receipt of a request, the Electoral Commission must decide whether to grant or decline the request.
- (5) If the Electoral Commission grants a request under subclause (4) to issue a vote by dictation, the Electoral Commission must make any arrangements that the Electoral Commission considers necessary for the issue and receipt of special votes by dictation, including—
 - (a) arrangements for the votes to be made by—
 - (i) telephone; or
 - (ii) any other means that the Electoral Commission may approve; and
 - (b) to the extent possible, arrangements to preserve the secrecy of the ballot; and
 - (c) arrangements to ensure that votes are accurately recorded on ballot papers; and
 - (d) arrangements for the envelopes containing special votes recorded under this regulation to be marked with the Electoral Commission's official mark and then to be—
 - (i) forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) placed in a box or receptacle that is specially provided for the votes of special voters.
- (6) The following regulations apply, with all necessary modifications, to special votes by dictation under this regulation:

- (a) regulation 21 (except subclause (5)(a)(iv)):
 - (b) regulation 25(1):
 - (c) regulation 28(1) and (2)(b):
 - (d) regulations 32 to 42.
- (7) A special vote by dictation must be received by the Electoral Commission by 7 pm New Zealand time on polling day (the **deadline**).
- (8) To avoid doubt, a voter who is voting by dictation at the deadline is entitled to complete dictating their vote.

18 Regulation 47A revoked (Special votes may be returned by facsimile)

Revoke regulation 47A.

19 Regulation 48A revoked (Receipt of special votes by facsimile)

Revoke regulation 48A.

20 Regulation 48B amended (Receipt of special votes electronically)

Replace regulation 48B(c) and (d) with:

- (c) after taking all reasonable steps to preserve the secrecy of the ballot,—
 - (i) place the ballot paper, any voting papers, and the declaration in an appropriate special voter envelope or appropriate compartments of a special voter envelope, mark the envelope with the Electoral Commission’s official mark, and then arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) place the ballot paper, any voting papers, and the declaration in a box or receptacle that is specially provided for the votes of special voters and then deal with all papers in accordance with regulations 34 to 42 with any necessary modifications (including that the references in those regulations to a Returning Officer must be read as references to an Electoral Commissioner or electoral official).

21 Regulation 50 amended (Overseas special votes received in time)

- (1) In regulation 50(1)(c), delete “48A(2) or”.
- (2) Revoke regulation 50(3)(b).

22 Regulation 51 amended (Overseas special votes received late)

Replace regulation 51(2)(c) with:

- (c) set the envelope aside without opening it or any compartment labelled “BALLOT AND/OR VOTING PAPERS”; and

23 Part 4 heading amended

In the Part 4 heading, after “**Raoul Island,**”, insert “**Pitt Island,**”.

24 Regulation 53 amended (Application of Part)

(1) Replace regulation 53(a) and (b) with:

- (a) voters on Tokelau, Campbell Island, Raoul Island, Pitt Island, and the Ross Dependency; and
- (b) voters on vessels who during the period beginning with the close of nominations and ending with the close of the poll have not had reasonable access to voting facilities; and

(2) In regulation 53(ba), (bb), and (c), replace “special voters” with “voters”.

25 Regulation 55 amended (Electoral Commission to forward special voting papers to Issuing Officers)

(1) In regulation 55(1)(c), delete “or Part 4”.

(2) In regulation 55(3), delete “by facsimile or”.

26 Regulation 56 amended (Issue of special voting papers by Issuing Officers)

In regulation 56(3), delete “by facsimile or”.

27 Regulation 57 amended (Electoral Commission may issue special voting papers to special voters)

(1) Replace regulation 57(2) with:

- (2) The documents may be issued to the special voter under subclause (1)—
- (a) electronically; or
 - (b) by post, if it is impracticable to issue them electronically; or
 - (c) by dictation, if—
 - (i) either—
 - (A) it is impracticable to issue them by the method specified in paragraph (a) or (b); or
 - (B) the special voter has a disability; and
 - (ii) the request of the special voter to issue a vote by dictation is made no later than noon New Zealand time on polling day.

(2) After regulation 57(4), insert:

- (5) In this regulation, **disability**, in relation to a special voter, means the voter is—
- (a) blind; or
 - (b) partially blind and is unable to mark the ballot paper without assistance; or

- (c) has another physical disability and is unable to mark the ballot paper without assistance.

28 Regulation 59 amended (Return of special votes)

- (1) Revoke regulation 59(1)(c).
- (2) In regulation 59(5), delete “by facsimile under subclause (1)(c) or”.

29 Regulation 60 amended (Receipt of special votes by hand or post)

In regulation 60(3)(b), delete “facsimile or”.

30 Regulation 61 amended (Issuing Officer may forward special votes by facsimile or electronically)

- (1) In the heading to regulation 61, delete “by facsimile or”.
- (2) Replace regulation 61(2)(a) to (e) with:
 - (a) extract the declaration form from each envelope or the declaration compartment of each envelope, write the consecutive number from the declaration form on the outside of that envelope, and forward the declarations by electronic transmission to the Electoral Commission; and
 - (b) replace each declaration in the corresponding envelope or the declaration compartment of the corresponding envelope, together with the consent form in a form that the Electoral Commission has approved; and
 - (c) extract the ballot paper and any voting papers from each envelope or the compartment of each envelope marked “BALLOT AND/OR VOTING PAPERS”, remove any gummed paper covering the consecutive number on the ballot paper and any voting papers, and forward the ballot papers and any voting papers to the Electoral Commission electronically; and
 - (d) replace each ballot paper and any voting paper in the corresponding envelope or the compartment of the corresponding envelope marked “BALLOT AND/OR VOTING PAPERS”; and
 - (e) reseal each envelope or each compartment of the envelope; and

31 Regulation 62 revoked (Receipt of special votes by facsimile)

Revoke regulation 62.

32 Regulation 63 amended (Receipt of special votes by electronic transmission)

Replace regulation 63(2)(c), (d), and (e) with:

- (c) after taking all reasonable steps to preserve the secrecy of the ballot,—
 - (i) place the ballot paper, any voting papers, and the declaration in an appropriate special voter envelope or appropriate compartments of a special voter envelope, mark the envelope with the Electoral Commission’s official mark, and then arrange for the envelope to

be posted or forwarded to the Returning Officer for the district for which the vote was issued; or

- (ii) place the ballot paper, any voting papers, and the declaration in a box or receptacle that is specially provided for the votes of special voters and then deal with all papers in accordance with regulations 34 to 42 with any necessary modifications (including that the references in those regulations to a Returning Officer must be read as references to an Electoral Commissioner or electoral official).

33 Regulation 63A amended (Special votes under this Part received in time)

- (1) In regulation 63A(1)(b)(iii), delete “, 62(2)(c),”.
- (2) Revoke regulation 63A(3)(c).

34 Regulation 64 amended (Special votes under this Part received late)

Replace regulation 64(2)(c) with:

- (c) set the envelope aside without opening it or any compartment labelled “BALLOT AND/OR VOTING PAPERS”; and

Rachel Hayward,
Acting Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 October 2022, amend the Electoral Regulations 1996 (the **principal regulations**).

These regulations amend the principal regulations to—

- provide for the use of electronic marking and signatures by overseas voters and witnesses (*new regulation 19A* inserted into the principal regulations);
- facilitate dictation voting for overseas voters who have a disability that prevents them from marking the ballot paper without assistance (*new regulation 45B* inserted into the principal regulations, and regulations 44A and 57 of the principal regulations amended);
- extend the eligibility criteria for persons in remote locations to vote as special voters, and adding Pitt Island to the list of remote locations (regulation 53 of the principal regulations amended);
- extend the deadline for Returning Officers to receive special votes in general elections from 10 days after polling day to 13 days after polling day (regulation 34 of the principal regulations amended);

- remove the requirement to use gummed paper on ballot papers and envelope compartments where special voting papers are issued electronically (regulations 21 of the principal regulations amended):
- permit a Returning Officer who has reason to believe that a special voter has a paper incorrectly placed in their envelope or a compartment of their envelope to open the envelope, ensure that the voter's papers are correctly placed, and then reseal the envelope (regulation 33 of the principal regulations replaced):
- provide flexibility to enable the secrecy of the ballot to be preserved other than by using envelopes with 2 self-contained compartments, particularly in the case of votes received by dictation, returned electronically, or received and processed centrally by the Electoral Commission (regulations 21, 24B, 27, 32, 34, 41, 48B, 51, 61, 63, and 64 of the principal regulations amended and regulations 33 and 40 of the principal regulations replaced):
- remove the provision for special votes to be returned by facsimile, which is now an outmoded means of transmission (regulations 24B, 55, 56, 57, 59, 60 and 61 of the principal regulations amended and regulations 47A and 48A of the principal regulations revoked):
- make technical or consequential amendments.

Issued under the authority of the Legislation Act 2019.

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These regulations are administered by the Ministry of Justice.