

House of Representatives

Supplementary Order Paper

Tuesday, 16 June 2020

Electoral (Registration of Sentenced Prisoners) Amendment Bill

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper amends the Electoral (Registration of Sentenced Prisoners) Amendment Bill.

The following amendments are made to the Bill:

- *clause 7* is amended to clarify that *new sections 86A and 86B* apply in respect of prisoners who are 18 years or older:
- *clause 7* is amended to provide that the duties of a prison manager in *new section 86A* also extend to prisoners who—
 - have their sentence of imprisonment reduced or altered on appeal, or following a retrial, to a term of less than 3 years:
 - have their 18th birthday while serving a sentence of imprisonment for a term of less than 3 years:
- *clause 7, new section 86C*, is amended so that any prisoner who is concerned that the publication of their details would be prejudicial to their safety, or the safety of their family, will not have their details automatically entered on the unpublished roll, but will need to make an application to the Electoral Commission under section 115 of the principal Act in the same way as any other person. A prison manager must assist a prisoner wanting to make an application and must send the application to the Electoral Commission with the prisoner's enrolment details:
- *clause 7* is amended to insert a *new section 86F* that requires a prison manager, when carrying out their duties under *new sections 86A to 86C*, to communicate with a prisoner in a way that the prisoner can reasonably be expected to understand:
- *clause 8* is deleted so that the provisions of section 115 of the principal Act, which confers a discretion on the Electoral Commission to direct that a person's name and particulars not be published on any main or supplementary roll, are unchanged.

Departmental disclosure statement

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. It provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop &subtype=government&year=2020&no=512>

The Honourable Andrew Little, in Committee, to propose the amendments shown in the following document.

Hon Andrew Little

Electoral (Registration of Sentenced Prisoners) Amendment Bill

Government Bill

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Amendment Bill**

cl 1

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electoral (Registration of Sentenced Prisoners) Amendment Act **2020**.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

3 Principal Act

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

Part 1

Amendments relating to disqualification of sentenced prisoners for registration as electors

4 Section 3 amended (Interpretation)

In section 3(1), insert in its appropriate alphabetical order:

prison manager has the same meaning as in section 3(1) of the Corrections Act 2004

5 Section 80 amended (Disqualifications for registration)

(1) Replace section 80(1)(d) with:

- (d) a person who is detained in prison under—
- (i) a sentence of imprisonment for life; or
 - (ii) a sentence of preventive detention; or
 - (iii) a sentence of imprisonment for a term of 3 years or more:

(2) After section 80(1), insert:

(1A) For the purposes of **subsection (1)(d)(iii)** and **sections 86A to 86C**, 2 or more sentences of imprisonment for a fixed term that are at any time directed to be served cumulatively are to be treated as a single sentence of imprisonment for a term equal to the sum of the term of imprisonment of each sentence.

6 Section 81 replaced (Detention in prison pursuant to sentence of imprisonment)

Replace section 81 with:

81 Prison manager to forward to Electoral Commission details of prisoners disqualified for registration

Not later than 7 days after a person described in **section 80(1)(d)** is received into a prison to serve the whole or part of their sentence, the prison manager must forward to the Electoral Commission a notice stating—

- (a) the name, previous residential address, and date of birth of the person; and
- (b) the name and address of the prison.

Part 2

Amendments relating to registration of sentenced prisoners as electors

7 New sections 86A to 86E inserted

After section 86, insert:

86A Registration of prisoners serving sentence of imprisonment of less than 3 years

(1A) This section applies when—

- (a) a prisoner who is 18 years or older—
 - (i) is received into a prison to serve a sentence of imprisonment for a term of less than 3 years; or
 - (ii) has their sentence of imprisonment reduced or altered on appeal, or following a retrial, to a term of less than 3 years; or
- (b) a prisoner turns 18 years while serving a sentence of imprisonment for a term of less than 3 years.

~~(1) When a prisoner is received into a prison to serve a sentence of imprisonment for a term of less than 3 years, If this section applies, the prison manager must, as soon as is reasonably practicable,—~~

- ~~(a) advise the prisoner that if they are a New Zealand citizen or a permanent resident of New Zealand (as defined in section 73) and have at some time resided continuously in New Zealand for a period of not less than 1 year they are qualified to be registered as an elector of an electoral district, and are required by section 82 to apply to the Electoral Commission for registration; and~~
- ~~(b) ask the prisoner whether they want their enrolment details sent to the Electoral Commission to facilitate their registration as an elector.~~

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- (2) If the prisoner wants their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, **section 86C** applies.

86B Registration of prisoners released after serving sentence of imprisonment of 3 years or more

- (1) Before a prisoner who is serving a sentence of imprisonment for a term of 3 years or more is released on parole or after serving the full sentence, the prison manager must, if the prisoner is 18 years or older,—
- (a) advise the prisoner that if they are a New Zealand citizen or a permanent resident of New Zealand (as defined in section 73) they will, on release, be qualified to be registered as an elector of an electoral district, and are required by section 82 to apply to the Electoral Commission, within 1 month after their release, for registration; and
 - (b) ask the prisoner whether they want their enrolment details sent to the Electoral Commission to facilitate their registration as an elector.
- (2) If the prisoner wants their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, **section 86C** applies.

86C Prison manager to collect and send enrolment information to Electoral Commission

- (1) If a prisoner referred to in **section 86A or 86B** wants their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, the prisoner must provide to the prison manager the following information for that purpose:
- (a) the prisoner's details specified in section 83(2)(a), (b), (c), (d), (g), and (h); and
 - (b) if the prisoner is of Maori descent and at the time of providing their enrolment details is, in accordance with section 76(2), eligible to exercise the option referred to in section 76(1), whether the prisoner's preference is to be enrolled on the Maori electoral roll or General electoral roll; and,
 - (e) ~~whether the prisoner considers that their safety or the safety of their family is at risk and would prefer not to have their name published in any main or supplementary roll.~~
- (2) The prison manager must collect the enrolment information provided by a prisoner and send that information to the Electoral Commission as soon as is reasonably practicable—
- (a) after collecting the information, if the information is collected from a prisoner referred to in **section 86A**; or
 - (b) after the prisoner's release from prison, if the information is collected from a prisoner referred to in **section 86B**.

- (2A) If a prisoner wishes to apply for a direction under section 115 (unpublished names), the prison manager must—
- (a) assist the prisoner to prepare an application accompanied by supporting information; and
 - (b) send the application and supporting information to the Electoral Commission with the prisoner’s enrolment information.
- (3) A prison manager may not use or disclose the ~~enrolment~~ information collected from a prisoner other than in accordance with **subsection (2) or (2A)**.
- (4) If, at any time after sending a prisoner’s ~~enrolment~~ information to the Electoral Commission, the overall length of a prisoner’s sentence or sentences of imprisonment change in a way that results in the prisoner becoming disqualified for registration as an elector under **section 80(1)(d)**, the prison manager must advise the Electoral Commission.

86D Enrolment information received from prison manager treated as application for registration

- (1) The Electoral Commission must, for the purposes of this Act, treat—
- (a) the receipt of a person’s details referred to in **section 86C(1)(a)** as an application by the person to register as an elector of an electoral district; and
 - (b) the receipt of a person’s preference referred to in **section 86C(1)(b)** to be enrolled on the Maori electoral roll as a request by the person to be registered as an elector of a Maori electoral district.
- (2) ~~If, under **section 86C(2)**, the Electoral Commission receives notice that a prisoner’s preference is not to have their name published in any main or supplementary roll, **section 115(3)** applies.~~
- (3) This section overrides section 83(1) to (4).

86E Delegation of prison manager’s functions under sections 86A to 86C

- (1) A prison manager may delegate to 1 or more prison officers the prison manager’s functions under **sections 86A to 86C**.
- (2) Subject to any directions or conditions imposed by the prison manager, a prison officer to whom the prison manager’s functions are delegated under this section may carry out those functions in the same manner and with the same effect as if they had been conferred on the prison officer directly by **sections 86A to 86C**.
- (3) A delegation must be in writing and may be revoked at any time.
- (4) In this section, **prison officer** means an officer within the meaning of paragraph (a)(ii) of the definition of that term in section 3(1) of the Corrections Act 2004.

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Part 2-cl-8

86F Prison manager to communicate with prisoner in way prisoner can understand

When carrying out their duties under **sections 86A to 86C**, a prison manager must communicate with a prisoner in a way that the prisoner can reasonably be expected to understand.

8 ~~Section 115 replaced (Unpublished names)~~

Replace section 115 with:

115 ~~Unpublished names~~

- (1) ~~This section applies despite sections 101, 104, 105, 107, 108, and 110(3)(c) and (d).~~
- (2) ~~If the Electoral Commission is satisfied, on the application of any person, that the publication of that person's name would be prejudicial to the personal safety of that person or the person's family, the Electoral Commission may direct that—~~
 - (a) ~~the name, residence, and occupation of the person not be published in any main or supplementary roll or in any list or index that may be available for inspection by the public; and~~
 - (b) ~~the name and particulars of the person not be available for inspection under section 110(3)(e); and~~
 - (c) ~~the person's application for registration not be available for inspection under section 110(3)(d).~~
- (3) ~~However, if the Electoral Commission receives, from a prison manager under **section 86C(2)**, enrolment information in respect of any prisoner in which the prisoner has expressed a preference not to have their name published in any main or supplementary roll, the Electoral Commission must, on receipt of that information and when registering the prisoner as an elector, make a direction under **subsection (2)** without—~~
 - (a) ~~receiving any application from the prisoner; or~~
 - (b) ~~needing to be satisfied that the publication of the prisoner's name on a roll would be prejudicial to the prisoner's safety or the safety of the prisoner's family.~~
- (4) ~~Without limiting the discretion of the Electoral Commission under **subsection (2)**, the Electoral Commission may, on the production of any of the following documents, exercise its power in **subsection (2)** without further evidence or inquiry:~~
 - (a) ~~a protection order that is in force under Family Violence Act 2018 in respect of the person; or~~
 - (b) ~~a restraining order that is in force under the Harassment Act 1997 in respect of the person; or~~

- (e) ~~a statutory declaration from a constable to the effect that they believe that the personal safety of the person or of the person's family could be prejudiced by the publication of the person's name.~~

9 Schedule 1AA amended

In Schedule 1AA, after Part 1, insert:

Part 2
Provisions relating to Electoral (Registration of Sentenced Prisoners)
Amendment Act 2020

3 Interpretation

In this Part,—

Act means the Electoral (Registration of Sentenced Prisoners) Amendment Act **2020**

specified prisoner means a prisoner who—

- (a) is received into a prison before the commencement of the Act to serve a sentence of imprisonment; and
- (b) is not, after the commencement of the Act, disqualified under **section 80(1)(d)** for registration as an elector.

4 Prison manager to assist specified prisoners to register as electors

A prison manager must, as soon as is reasonably practicable after the commencement of the Act, comply with **sections 86A and 86C** in respect of a specified prisoner as if the specified prisoner were a prisoner referred to in **section 86A** being received into the prison.