

**Proactive release – Electoral (Registration of Sentenced Prisoners) Amendment Bill SOP**

**13 August 2020**

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	<b>Electoral (Registration of Sentenced Prisoners) Amendment Bill – Supplementary Order Paper</b> <i>Cabinet paper</i>	Some information has been withheld in accordance with section 9(2)(g)(i) of the Official Information Act.
2	<b>Supplementary Order Paper 512</b> <i>Attachment to Cabinet paper</i>	Withheld in full in accordance with section 61 of the Legislation Act 2012 and section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege. The legislative instruments are publicly available from <a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a> .
3	<b>CBC-20-MIN-0060</b> <i>Cabinet minute</i> Meeting date: 8 June 2020	Some information has been withheld in accordance with section 9(2)(g)(i) of the Official Information Act.

In Confidence

Office of the Minister of Justice

Chair, Cabinet Business Committee

## **Electoral (Registration of Sentenced Prisoners) Amendment Bill: Approval for Supplementary Order Paper**

### **Proposal**

1. I seek approval to table the attached Supplementary Order Paper (SOP) which implements changes to the Electoral (Registration of Sentenced Prisoners) Amendment Bill (the Bill).

### **Background**

2. The Bill amends the Electoral Act 1993 (the Act) to:
  - 2.1. re-enfranchise people in prison who are serving shorter prison sentences by reverting to the pre-2010 law, allowing all prisoners serving sentences of less than three years' imprisonment to enrol and vote;
  - 2.2. encourage prisoners to enrol to vote once eligible by requiring the Department of Corrections (Corrections) to collect the information necessary for a sentenced prisoner to be enrolled and provide this to the Electoral Commission (the Commission) with the prisoner's agreement. For people serving less than three years, this will be when the prisoner is in prison, and for those serving three years or more, this will be when they are released; and
  - 2.3. require the Commission to enrol the prisoner if it has received sufficient information [CAB-19-MIN-0596 refers].
3. The Bill was introduced on 25 February and referred to the Justice Committee. The Bill was reported back to the House on 28 May. The Justice Committee did not reach agreement on whether the bill should be passed; nor on whether any changes should be made to the Bill as introduced. I propose to table the attached Government SOP to make the changes recommended to the Committee in the officials' departmental report on the Bill. These changes reflect comments made by submitters on the Bill and are detailed below.

### **Supplementary Order Paper**

4. The SOP makes four amendments to the Bill. One is a substantive change to clarify how provisions around prisoners applying to be on the unpublished roll should work. The other three changes are minor and technical amendments.

### *Unpublished roll*

5. In February, Cabinet agreed to include amendments in the Bill about the unpublished roll. These provisions provide that if a prisoner is being enrolled through the new process of Corrections collecting their enrolment details and passing these to the Electoral Commission, the Electoral Commission will place them on the unpublished electoral roll if requested, without need for any further supporting evidence [LEG-20-MIN-0024 refers].

6. Some submitters to the Justice Committee were concerned that these provisions make it easier for prisoners to be placed on the unpublished roll than it is for the general public. The general public need to submit an application to go on the unpublished roll and provide supporting evidence to the Electoral Commission for its consideration. In response to this concern the SOP ensures it is clear that prisoners need to satisfy the same test as all other people who apply to go on the unpublished roll.
7. This involves amending the Bill to ensure that a prisoner would only go on the unpublished roll if the Electoral Commission is satisfied that the publication of that person's name would be prejudicial to the personal safety of that person or the person's family. Corrections would assist a prisoner to complete an application if a prisoner wishes to apply, including assisting prisoners to provide evidence to support the application where appropriate.

#### *Other amendments*

8. The other three amendments in the SOP are minor and technical improvements to the Bill as a result of submitter comments. These are:
  - 8.1. amending the enrolment provisions to ensure those: who cannot enrol when they first enter prison but who turn 18 while in prison, or whose sentence is reduced to less than three years on appeal or following a retrial are also given the opportunity to enrol;
  - 8.2. clarifying that the enrolment provisions apply only where a prisoner is 18 or over; and
  - 8.3. including an obligation for the prison manager to communicate with a prisoner in a way that the prisoner can reasonably be expected to understand while carrying out their duties under the Bill.

#### **Financial implications**

9. The Bill does require additional duties from the Electoral Commission and Corrections to enable prisoners to enrol and vote. These costs can be absorbed within these agencies' baselines [CAB-19-MIN-0596 refers]. The changes to the Bill in the SOP do not alter these costs.

#### **Impact analysis**

10. The Regulatory Quality Team at the Treasury has determined that the regulatory proposals in this paper are exempt from the requirement to provide a Regulatory Impact Assessment on the basis that they have no or minor impacts on businesses, individuals or not for profit entities.
11. The Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

#### **Compliance**

12. The SOP complies with:
  - 12.1. the principles of the Treaty of Waitangi;
  - 12.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

- 12.3. the disclosure statement requirements (a short form disclosure statement prepared by the Ministry of Justice is attached);
- 12.4. the principles and guidelines set out in the Privacy Act 1993;
- 12.5. relevant international standards and obligations; and
- 12.6. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Consultation**

- 13. The Electoral Commission, the Department of Corrections, Treasury and the Office of the Privacy Commissioner have been consulted on the proposals in this paper and the draft supplementary order paper.
- 14. The government caucus and other parties represented in Parliament have been consulted.

### **Binding on the Crown**

- 15. The Bill is binding on the Crown. The SOP will not change this.

### **Creating new agencies or amending law relating to existing agencies.**

- 16. The SOP does not create any new agencies or amend the law relating to existing agencies.

### **Allocation of decision making powers**

- 17. The SOP does not affect the allocation of decision-making powers between the executive, the courts, and tribunals.

### **Associated regulations**

- 18. Regulations are not needed to bring the SOP into operation.

### **Other instruments**

- 19. The SOP does not include any provisions empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

### **Definition of Minister/department**

- 20. The SOP does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

### **Commencement of legislation**

- 21. The SOP when incorporated into the Bill will come into effect on the same date as the Bill. The Bill will come into force on the day after the date of Royal assent.

### **Parliamentary stages**

- 22. s9(2)(g)(i) [REDACTED] It was referred to the Justice Committee and reported back on 28 May. It is intended that the Bill be passed by the end of June 2020 to enable the



Electoral Commission and the Department of Corrections to implement the changes in a timely way before the 2020 general election.

### Proactive Release

23. I propose to release this Cabinet paper, and related Minute, with any necessary redactions, following the SOP being tabled in the House.

### Recommendations

The Minister of Justice recommends that the Committee:

1. **note** that the attached Supplementary Order Paper amends the Electoral (Registration of Sentenced Prisoners) Amendment Bill s9(2)(g)(i) and
2. **approve** the attached Supplementary Order Paper for tabling which implements the following changes to the Bill:
  - 2.1. ensuring that a prisoner would only go on the unpublished roll if the Electoral Commission is satisfied that the publication of that person's name would be prejudicial to the personal safety of that person or the person's family. Corrections would assist a prisoner to complete an application if a prisoner wishes to apply, including where appropriate assisting prisoners to provide evidence to support the application.
  - 2.2. amending the enrolment provisions to ensure those: who cannot enrol when they first enter prison but who turn 18 while in prison, or whose sentence is reduced to less than three years on appeal or following retrial are also given the opportunity to enrol;
  - 2.3. clarifying that the enrolment provisions apply only where a prisoner is 18 or over; and
  - 2.4. including an obligation for the prison manager to communicate with a prisoner in a way that the prisoner can reasonably be expected to understand while carrying out their duties under the Bill.
3. **agree** that the Minister of Justice be authorised to make any additional minor and technical drafting decisions that may be required before the Supplementary Order Paper is tabled in the House.

Authorised for lodgement

Hon Andrew Little  
Minister of Justice



# Cabinet Business Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Electoral (Registration of Sentenced Prisoners) Amendment Bill: Supplementary Order Paper

Portfolio Justice

On 8 June 2020, the Cabinet Business Committee:

#### The Minister of Justice recommends that the Committee:

- 1 **noted** that the Supplementary Order Paper, attached to the paper under CBC-20-SUB-0060, amends the Electoral (Registration of Sentenced Prisoners) Amendment Bill s9(2)(g)(i) [REDACTED]
- 2 **approved** the Supplementary Order Paper [PCO 22565-1/6.0] for release which implements the following changes to the Bill:
  - 2.1 ensuring that a prisoner would only go on the unpublished roll if the Electoral Commission is satisfied that the publication of that person's name would be prejudicial to the personal safety of that person or the person's family. Corrections would assist a prisoner to complete an application if a prisoner wishes to apply, including where appropriate assisting prisoners to provide evidence to support the application.
  - 2.2 amending the enrolment provisions to ensure those: who cannot enrol when they first enter prison but who turn 18 while in prison, or whose sentence is reduced to less than three years on appeal or following retrial are also given the opportunity to enrol;
  - 2.3 clarifying that the enrolment provisions apply only where a prisoner is 18 or over;
  - 2.4 including an obligation for the prison manager to communicate with a prisoner in a way that the prisoner can reasonably be expected to understand while carrying out their duties under the Bill;
- 3 **agreed** that the Minister of Justice be authorised to make any additional minor and technical drafting decisions that may be required before the Supplementary Order Paper is released to the House.

Vivien Meek  
Committee Secretary

**Present:**

Rt Hon Jacinda Ardern (Chair)  
Rt Hon Winston Peters  
Hon Kelvin Davis  
Hon Grant Robertson  
Hon Phil Twyford  
Hon Dr Megan Woods  
Hon Chris Hipkins  
Hon Andrew Little  
Hon Carmel Sepuloni  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Dr David Clark  
Hon Tracey Martin  
Hon James Shaw

**Officials present from:**

Office of the Prime Minister  
Department of the Prime Minister and Cabinet

RELEASED BY THE MINISTER OF JUSTICE