

Privacy Commissioner's Submission to the Justice Committee on the Electoral (Registration of Sentenced Prisoners) Amendment Bill (223-1)

Introduction

1. I am pleased to provide a submission on the Electoral (Registration of Sentenced Prisoners) Amendment Bill (the Bill).
2. The Bill amends the Electoral Act 1993 (the Act). The Bill seeks to enfranchise people who are serving a prison sentence of less than 3 years and better facilitate participation in the electoral system of prisoners who are to be released from prison following a prison sentence of 3 years or more by:
 - allowing prisoners who are serving a prison sentence of less than 3 years to enrol to vote at elections and referendums if they are qualified to be registered;
 - requiring prison managers to, as soon as reasonably practicable, engage with prisoners who are serving a prison sentence of less than 3 years or are due to be released from prison following a prison sentence of 3 years or more and ask if they want their enrolment details sent to the Electoral Commission to facilitate their registration as an elector; and
 - requiring prisoners qualified to vote, who want Corrections to facilitate their registration as an elector, to provide their enrolment details to the prison manager who will then forward these details to the Electoral Commission for processing.
3. The Privacy Act 1993 is New Zealand's main privacy law. It governs the collection, use, storage and disclosure of personal information and provides a mandate for my Office to consider wider developments or actions that affect personal privacy. One of my functions under the Privacy Act is to examine legislation before Parliament and to consider any matters affecting individuals' privacy.
4. I support the Bill and do not recommend any changes. I consider that the proposal to (where requested) automatically enter a prisoner's details on the unpublished roll to be an important privacy safeguard. My comments on the Bill relate to clauses 7 and 8.

Clauses 7 & 8: Amendments relating to registration of sentenced prisoners as electors

Prison manager to collect and send enrolment information to Electoral Commission

5. The current legislation disqualifies all sentenced prisoners from voting and many people do not re-enrol after leaving prison. While Corrections provides prisoners with enrolment papers upon their release, the Electoral Commission is not able to directly communicate with prisoners about enrolling or re-enrolling as they are not notified of their release.
6. The Bill seeks to help sentenced prisoners serving a term of less than 3 years and prisoners about to be released to enrol or re-enrol to vote. It accomplishes this by

allowing Corrections to send prisoner enrolment information to the Electoral Commission. Under new section 86C, prisoners qualified to vote under the Bill who want their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, must provide to the prison manager the following personal information:

- The prisoner's details including their full name, date of birth, place of residence, postal address, whether they identify as Māori, and any other particulars described in regulation.
 - If eligible, whether the prisoner's preference is to be enrolled on the Māori electoral roll or the General electoral roll.
 - 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.
7. Prisoners will be asked for their occupation and honorific, but they are not required to provide this information to enrol. This is consistent with the treatment of non-prisoners under section 83 of the Act.
 8. The Electoral Commission must treat receipt of a person's details from a prison manager as an application for registration. This will make it easier for prisoners qualified to vote under the Bill to register as an elector on the published or unpublished roll. If a prisoner does not want to provide Corrections with their enrolment details, they can enrol through the standard enrolment process.
 9. In my view, the sections introduced by Clause 7 are an appropriate way to manage the personal information of prisoners and facilitate their registration as electors. I support the intent, and the drafting of this clause, and make no recommendations for change.

Prisoners' details automatically entered on the unpublished roll upon request

10. When a person enrolls to vote, their full name, home address and occupation is usually made publicly available on a published electoral roll. The Electoral Commission has the power to direct that a person's details are not to be published on an electoral roll if the Electoral Commission considers that the publication of those details would be prejudicial to the safety of the person or the person's family.
11. It is likely that many prisoners qualified to vote would already satisfy the test to be placed on the unpublished roll. However, the usual process requires Corrections to complete a letter of support for each prisoner who wishes to go on the unpublished roll.
12. Under new section 115, the Electoral Commission must automatically enter a prisoner's details on the unpublished roll if the prisoner considers that their safety or the safety of their family is at risk and prefers not to have their name published in any main or supplementary roll. The Electoral Commission does not have to be satisfied that the publication of the prisoner's details would be prejudicial to their safety or the safety of their family.

13. I consider that the extra privacy afforded to prisoners by this clause is justified. For most prisoners, the address to be recorded on the electoral roll will be the address they resided at prior to imprisonment. Publishing this address could create significant safety and privacy concerns if a victim or the prisoner's family reside there.

Conclusion

14. I support the Bill's intention to better facilitate participation in the electoral system of prisoners who are qualified to vote under the Bill and are about to be released from prison.
15. I trust my comments are of use to the Committee in its consideration of the Bill. I do not seek to be heard on my submission but am happy to appear before the Committee if that would be of assistance.



John Edwards
Privacy Commissioner

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