



Youth Parliament 2013 Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill that proposes to amend the Constitution Act 1986 and the Electoral Act 1993. The purpose of this Bill is to make a number of changes aimed at modernising the electoral system to increase voter participation, particularly of young people, in the electoral process.

Changing voting age, methods, and compliance

The Bill amends the Electoral Act 1993 by reducing the qualifying voting age from 18 years to 17 years, improving access to voting by adding electronic voting to the voting methods, and shifting voting from a right to a duty by making voting compulsory for all eligible voters.

These changes will encourage increased voter participation of young people in the electoral process and therefore the House of Representatives will represent a larger proportion of the New Zealand population.

Extending the term of Parliament

The Bill amends the Constitution Act 1986 by changing the term of Parliament from 3 to 4 years. A 4 year term will reduce the overall costs of the election process.

Extending the term of Parliament will also bring New Zealand into line with international practices where a 4 or 5 year term is more common.

Reducing the voting age from 18 years to 17 years

The Bill reduces the qualifying voting age from 18 years to 17 years. This change will increase the number of young people who are eligible to vote and acknowledges that 17-year-olds have the skills and mental dexterity from life experience, work experience, and educational achievement to make informed voting decisions as competently as New Zealanders aged 18 years and over. Allowing younger New Zealanders to vote will give young people a greater say in policies that affect them and these policies may also receive greater attention in Parliament.

Electronic voting methods

The Bill acknowledges the need to respond to an increasingly technological society where the Internet plays an integral part in many New Zealanders' lives. By adding electronic voting to the methods of voting under the Electoral Act 1993, the Bill seeks to improve voting access and, in particular, be responsive to young and future voters.

It is proposed that regulations will be made under this Bill that will authorise the use of the Internet and phone as electronic voting methods, but voting from electronic polling booths will not be included as this is not considered cost effective at this time. The regulations will also include requirements for managing the associated technical, security, and process issues that may arise. This will include authentication requirements for those voters wishing to use electronic voting methods and the ability to revote either electronically, or at a polling place on election day, if a voter changes their mind. The process will ensure only the last vote cast will be counted.

Regulations made under this Bill will also provide for pilot electronic voting methods to be trialled at the 2014 general election. The pilot voting methods will be subject to the scrutiny of the Chief Electoral Officer, who has the authority under this Bill to suspend or cancel any pilot scheme if he or she considers the method will not be able

to operate in a manner consistent with the other voting methods described in the Electoral Act 1993.

Enforceable compulsory voting

The Bill introduces enforceable compulsory voting, which aims to increase voter turnout and changes voting from a right to vote to a duty to vote. Compulsory voting will also apply to by-elections for constituency members.

To support this duty, the Bill establishes an infringement offence system for eligible electors who fail to vote. A person who fails to vote without a good and sufficient reason will receive a warning letter on the first occasion. On the second occasion, that person would then be liable to pay an infringement fee of \$75. On the third or subsequent occasion, the infringement fee will be \$300.

The infringement fees will increase in line with the Consumers Price Index (CPI) prior to a general election up to an upper limit of \$500. While the fees will be adjusted every 4 years, the increase will be calculated on the annual CPI increase over that 4 year period.

The Bill provides that the chief executive of the Ministry of Justice will be responsible for administering the compulsory voting and infringement offence system.

Entrenchment

Section 268 of the Electoral Act 1993 provides that any amendment or repeal of the voting age or the term of Parliament can only be achieved by a 75% majority in the House of Representatives or by majority vote in a referendum. This is because these provisions are considered fundamental to New Zealand's constitution. This Bill preserves that position for those amended provisions under the Electoral Act 1993 and the Constitution Act 1986.

Clause by clause analysis

Clause 1 is the Title clause. It is intended that the Bill, which is an omnibus Bill amending more than 1 Act, will be divided into the following 2 Bills after the third reading:

- Constitution (4 Year Parliamentary Term) Amendment Bill:

- Electoral (Qualifying Voting Age, Electronic Voting Methods, and Compulsory Voting) Amendment Bill.

Clause 2 is the commencement clause and provides that the Bill (except *Part 1*) comes into force on the day after the date on which it receives the Royal assent. *Part 1* comes into force on the same date as the day fixed for the return of the writs for the first general election held on or after the commencement of the rest of the Bill.

Part 1

Constitution Act 1986

Clause 3 provides that the purpose of *Part 1* is to amend the Constitution Act 1986 (the **principal Act** in this Part).

Clause 4 provides that the purpose is to establish a 4 year term of Parliament, which will commence on the day fixed for the return of the writs issued for the first general election of members of the House of Representatives held on or after the commencement of the Bill.

Clause 5 replaces section 17 with *new section 17*, which establishes a 4 year term of Parliament. This provision remains entrenched under section 268 of the Electoral Act 1993. *Clause 5* also clarifies that the reference to the last preceding general election in *new section 17(1)* is, for the first general election of members of the House of Representatives held on or after the commencement of the Bill, a reference to that first general election held on or after that commencement.

Part 2

Electoral Act 1993

Clause 6 provides that the purpose of *Part 2* is to amend the Electoral Act 1993 (the **principal Act** in this Part).

Clause 7 provides that the purpose of *Part 2* is to promote greater participation in the electoral process by reducing the qualifying age for voting from 18 years to 17 years, introducing provisions for electronic voting methods, and establishing a compulsory voting system for elections that is to be enforced by way of an infringement offence system for those persons failing to vote without a good and sufficient reason.

Clause 8 amends section 3, which relates to interpretation, by replacing the definition of **adult** to introduce the new qualifying voting age

of 17 years, and inserting a definition of **electronic voting**, a new term used in the Bill. The definition of **adult** is a reserved provision under section 268 of the Electoral Act 1993, which means that the amendment to this term made by the Bill requires that amendment to be passed by a majority of 75% of all members of the House of Representatives.

Clause 9 amends section 60(f) by reducing the qualifying voting age from 18 years to 17 years for any member of the Defence Force outside New Zealand.

Clause 10 inserts *new Part 5A*, which introduces a compulsory electoral voting system. *New section 124A* defines new terms used in *new Part 5A*. *New section 124B* requires eligible electors to vote in every general election and every by-election held in the electoral district in which they are registered, and establishes an infringement offence for a failure to comply with the duty to vote. *New sections 124C to 124F* establish an infringement offence system that applies if an eligible elector fails to vote without a good and sufficient reason. An escalating penalty provision is provided, starting with a warning letter for a first offence and infringement fees for subsequent offences. The infringement fees are to be adjusted every 4 years in accordance with the upward percentage movement of the CPI, with an upper limit of \$500 for the adjusted total infringement fee. It is the responsibility of the chief executive of the Ministry of Justice to administer the infringement offence system and the chief executive is authorised to revoke an infringement notice in certain situations. *New section 124G* provides that the chief executive of the Ministry of Justice is responsible for administering the compulsory voting system in accordance with regulations made under section 267.

Clause 11 inserts *new sections 173B and 173C* and a *new cross-heading*. *New section 173B* provides that electronic voting methods may be authorised for use in an electoral district in accordance with regulations made under *new section 267AA*. *New section 173C* provides that the Chief Electoral Officer may suspend or cancel a pilot electronic voting method if it is not able to operate in a manner consistent with the voting methods described in the principal Act.

Clause 12 amends section 267 to enable regulations to be made to adjust the total infringement fee limits up to a maximum of \$500 for the purposes of *new section 124A* and to set out requirements for the administration of the compulsory voting system. It also provides a

power to round up an adjusted amount of a total infringement fee to the nearest whole dollar.

Clause 13 inserts *new section 267AA*, which provides for the making of regulations for the authorisation, administration, and regulation of electronic voting methods. It also requires the Minister, before recommending the making of regulations, to be satisfied that the voting method to be authorised will be able to operate in a manner consistent with voting methods described in the Electoral Act 1993, and to consult with the Minister of Internal Affairs, the Privacy Commissioner, and the Chief Electoral Officer.

Clause 14 amends section 268, which lists the minimum voting age as a reserved provision that may only be repealed or amended by a majority vote of 75% of all the members of the House of Representatives, by changing the reference to the minimum voting age from 18 years to 17 years.

Youth Parliament 2013 Bill

Electoral Law Reform Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electoral Law Reform Act 2013.

2 Commencement

- (1) This Act (except Part 1) comes into force on the day after the date on which it receives the Royal assent.
- (2) Part 1 comes into force on the same date as the day fixed for the return of the writs issued for the first general election held on or after the commencement of the rest of this Act.

**Part 1
Constitution Act 1986**

3 Principal Act

This Part amends the Constitution Act 1986 (the principal Act in this Part).

4 Purpose

The purpose of this Part is to establish a 4 year term of Parliament that will commence on the day fixed for the return of the writs issued for the first general election of members of the House of Representatives held on or after the commencement of the Electoral Law Reform Act 2013.

5 Section 17 replaced (Term of Parliament)

(1) Replace section 17 with:

“17 Term of Parliament

“(1) The term of Parliament is 4 years from the day fixed for the return of the writs issued for the last preceding general election of members of the House of Representatives, unless Parliament is dissolved earlier.

“(2) Section 268 of the Electoral Act 1993 applies in respect of subsection (1).”

(2) To avoid doubt, the reference in section 17(1) of the principal Act, as amended by this Act, to the last preceding general election is, for the first general election of members of the House of Representatives held on or after the commencement of the Electoral Law Reform Act 2013, a reference to that first general election held on or after that commencement.

**Part 2
Electoral Act 1993****6 Principal Act**

This Part amends the Electoral Act 1993 (the principal Act in this Part).

7 Purpose

The purpose of this Part is to amend the principal Act to promote greater participation in the electoral process by—

- (a) providing that the qualifying age for a person to be registered as an elector of any electoral district is to be reduced from 18 years to 17 years; and
- (b) establishing sufficient flexibility in the law to accommodate new electronic technologies in the methods of voting, through the use of regulations to prescribe matters of detail; and
- (c) providing for compulsory voting in elections by eligible electors and an infringement offence system for the failure to vote without good and sufficient reason.

8 Section 3 amended (Interpretation)

(1) In section 3(1), replace the definition of **adult** with:

“adult—

“(a) means a person of or over the age of 17 years; but

“(b) where a writ has been issued for an election, includes a person 16 years of age if that person’s 17th birthday falls in the period beginning on the Monday immediately before polling day and ending on polling day”.

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

“electronic voting means a vote cast by an eligible elector by means of a networked electronic device, such as a telephone, a smartphone, or a computer linked to the Internet”.

9 Section 60 amended (Who may vote)

Replace section 60(f) with:

“(f) any member of the Defence Force who is outside New Zealand, if he or she is or will be of or over the age of 17 years on polling day, and his or her place of residence immediately before he or she last left New Zealand is within the district.”

10 New Part 5A inserted

After section 124, insert:

“Part 5A

“Compulsory voting

“124A Interpretation

In this Part, unless the context otherwise requires,—

“chief executive means the chief executive of the Ministry of Justice

“CPI means the New Zealand Consumers Price Index all groups excluding cigarettes and other tobacco products, published by Statistics New Zealand

“infringement offence means an offence under section 124B(2)

“total infringement fee means—

“(a) as at the date of commencement of this section, \$300; or

“(b) every 4 years after the date of commencement of this section, is the amount in paragraph (a) adjusted by

Order in Council made under section 267(cb) to reflect the upwards percentage movement in the CPI as at 31 March for each of the 4 previous years.

“124B Duty to vote

- “(1) A person who is an eligible elector must vote in—
- “(a) every general election; and
 - “(b) every by-election for members representing the elector’s district.
- “(2) A person who fails to comply with the duty imposed by subsection (1) commits an infringement offence and is liable on conviction to a fine not exceeding \$3,000.
- “(3) A person who is alleged to have committed an infringement offence under subsection (2) may be—
- “(a) issued with a warning notice as provided in section 124C; or
 - “(b) served with an infringement notice as provided in section 124D; or
 - “(c) proceeded against in accordance with section 21 of the Summary Proceedings Act 1957.
- “(4) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or a Registrar to lay an information is not necessary if the person is proceeded against in accordance with that Act.

“124C Warning notices

- “(1) The chief executive may issue a warning notice to a person if the chief executive reasonably believes that—
- “(a) the person has, without good and sufficient reason, failed to comply with the duty imposed by section 124B(1); and
 - “(b) it is the first occasion on which the person has failed to comply with that duty.
- “(2) A warning notice must be issued in the prescribed form.

“124D Infringement notices

- “(1) The chief executive may issue an infringement notice to a person if the chief executive reasonably believes that—

- “(a) the person has failed to comply with the duty imposed by section 124B(1); and
 - “(b) it is the second or subsequent occasion on which the person has failed to comply with that duty.
- “(2) An infringement notice must be issued in the prescribed form.
- “(3) An infringement notice may be served—
- “(a) by personal delivery to the person who is alleged to have committed an infringement offence; or
 - “(b) by sending it by post to that person’s last known place of residence.
- “(4) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent by post is deemed to have been served on the date it was posted.
- “(5) If an infringement notice has been issued, proceedings in respect of the infringement offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957 and, in that case, the provisions of that section apply with all necessary modifications.

“124E Infringement fees

- “(1) The fee that must be specified in an infringement notice is—
- “(a) not greater than 25% of the total infringement fee, in the case of a person who is being issued with a first infringement notice after receiving a prior warning notice in accordance with section 124C(1); or
 - “(b) the total infringement fee, in the case of a person who has been issued with one or more prior infringement notices in accordance with section 124D(1).
- “(2) All infringement fees are payable to the chief executive, who must pay all fees received into a Crown Bank Account.

“124F Revocation of infringement notices

The chief executive may, by written notice to the person to whom the notice was issued, revoke an infringement notice at any time before—

- “(a) the infringement fee is paid; or
- “(b) an order for payment of a fine is made by a court under section 21 of the Summary Proceedings Act 1957.

“124G Chief executive to administer compulsory voting system

The chief executive must administer and regulate the compulsory voting system provided in this Part, in accordance with regulations made under section 267.”

11 New sections 173B, 173C, and cross-heading inserted

Before section 174 and the cross-heading above that section, insert:

“Electronic voting

“173B Authorised electronic voting methods

“(1) Despite anything to the contrary in this Act, a registered elector may vote in an election using an electronic voting method authorised for that electoral district in accordance with regulations made under section 267AA.

“(2) Subject to the provisions of this section, section 61, and the requirements of any regulations made for the purposes of this section, all the provisions of this Act apply, as far as applicable and with the necessary modifications, to an authorised electronic voting method.

“173C Chief Electoral Officer may suspend or cancel pilot voting method

The Chief Electoral Officer may suspend or cancel any pilot electronic voting methods authorised in accordance with regulations made under section 267AA if he or she is satisfied that the voting method will not be able to operate in a manner consistent with the voting methods described in this Act.”

12 Section 267 amended (Regulations)

(1) After section 267(ca), insert:

“(cb) adjusting the total infringement fee limit for the purposes of section 124A up to a maximum of \$500:

“(cc) prescribing processes, procedures, and notices, for the purposes of administering the compulsory voting system and the infringement offence system provided in Part 5A:”.

(2) After section 267(i), insert:

“(2) If, after an adjustment of the total infringement fee in accordance with subsection (1)(cb), the amount is not a whole dollar, the adjusted amount must be rounded up to the next whole dollar.”

13 New section 267AA inserted (Regulations relating to electronic voting methods)

After section 267A, insert:

“267AA Regulations relating to electronic voting methods

- “(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations—
- “(a) authorising the use of 1 or more electronic voting methods for all or any specified electoral district, including authorising the administration of pilot voting methods:
 - “(b) prescribing the time and manner in which electors may use electronic voting, whether in or outside New Zealand, including the ability to revote electronically or at a polling place:
 - “(c) prescribing different methods of electronic voting for different classes of voters, including special voters:
 - “(d) prescribing conditions, standards, performance measures, processes, procedures, and forms for the operation of an authorised electronic voting method:
 - “(e) prescribing the authentication process for the use of any authorised electronic voting method:
 - “(f) prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under this section:
 - “(g) prescribing penalties for offences against regulations made under this section, not exceeding a fine of \$2,000.
- “(2) Before making a recommendation under subsection (1), the Minister must—
- “(a) be satisfied that the voting method will be able to operate in a manner consistent with the voting methods described in this Act; and
 - “(b) consult with the Minister of Internal Affairs, the Privacy Commissioner, and the Chief Electoral Officer.”

14 Section 268 amended (Restriction on amendment or repeal of certain provisions)

In section 268(1)(e), replace “18” with “17”.