

Electoral (Disqualification of Convicted Prisoners) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill proposes an amendment to section 80(1)(d)(iii) of the Electoral Act 1993 by removing the right of a person serving a sentence of imprisonment for a term of less than 3 years to be able to register as an elector. Currently only a person serving a sentence of imprisonment for a term of 3 years or more is disqualified for registration as an elector.

If enacted, the law would revert back to what it was prior to the implementation of the current Act.

The change in 1993 was based on a recommendation of the 1986 Royal Commission on the Electoral System ("Commission") supported subsequently by advice from the Solicitor-General in 1992 (who considered whether it complied with the Bill of Rights and, finding that it did not, found merit in differentiating on the basis of the seriousness of the offence).

The Commission's recommendation was based on contemporary thinking at the time "...that a prisoner retains the ordinary rights of a citizen, insofar as they are consistent with his loss of liberty and the requirements necessary for his proper containment and management in the institution". The report of the Commission goes on to note "...we have some sympathy with the (widely held) view that punishment for a serious crime against the community may properly involve a further forfeiture of some rights such as the right to vote", and recommended those sentenced to a long period of imprisonment should forfeit their right to vote. Three years was arrived at based on the maximum period of continuous absence overseas.

The Commission's analysis is notable for its omission of any consideration as to the level of serious offending most prisoners have been convicted of prior to them eventually receiving a custodial sentence. For example between 2003–2008 the percentage of first time offences for possession of methamphetamine and amphetamine (exclusive of any other convictions these first time offenders may have had) that received non-custodial sentences was 69%.

Given most persons sentenced to any term of imprisonment of less than three years are almost certain to have a record of prior convictions this bill is based on the premise that such persons have already committed crimes against the community sufficient to forfeit their right to have a say in its governance.

Clause by clause analysis

Clause 1 is the Title clause

Clause 2 provides that the bill comes into force on the day after it receives the Royal assent.

Clause 3 provides that this Bill amends the Electoral Act 1993 (the **principal Act**)

Amendments to principal Act

Clause 4 makes two amendments to sections 80 and 81. Section 80(1)(d)(iii) provides that any person detained in prison on conviction is disqualified for registration as an elector. Section 81(1)(c) provides that a prison manager must forward to the Chief Registrar of Electors a notice that a person who has been sentenced to imprisonment has been received into that prison.

Paul Quinn

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Contents

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Electoral (Disqualification of Convicted Prisoners) Amendment Act 2010.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This Act amends the Electoral Act 1993.
- 4 Disqualification for registration**
Section 80(1)(d) is amended by omitting subparagraph (iii) and substituting the following subparagraph:

“(iii) a person who is detained in any penal institution pursuant to a conviction,—”.
- 5 Detention in prison pursuant to conviction**
Section 81(1) is amended by omitting paragraph (c) and substituting the following paragraph:

“(c) indicating that the provisions of section 80(1)(d) apply to that person.”