

Term of Parliament (Enabling 4-year Term) Legislation Amendment Bill

Government Bill

Explanatory note

General policy statement

The Term of Parliament (Enabling 4-year Term) Legislation Amendment Bill is an omnibus Bill introduced under Standing Order 267(1)(a). That Standing Order provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. The single broad policy implemented by the amendments in this Bill is to provide an option to extend, in specified circumstances, the maximum term of a Parliament to 4 years.

Purpose of Bill

A key purpose of the Bill is to help improve law making. New Zealand is rare internationally in having a 3-year parliamentary term and the short electoral cycle is not always conducive to good law making. Providing an option to extend the maximum term of Parliament from 3 to 4 years at the start of a parliamentary term is intended to allow more time to develop and progress well-tested policy and legislation.

The standard maximum term of a Parliament will remain 3 years. The Bill makes extending the term of a Parliament to 4 years contingent on the requirement that the overall membership of the subject select committees is proportional to the party membership in the House of Representatives of the non-executive members (the **proportionality requirement**). The intention of this is that the term of a Parliament could only be extended if there are improved checks and balances on the Government via the subject select committees.

The Bill proposes to entrench the key provisions enabling a 4-year term of Parliament, alongside the existing provision that provides for a maximum 3-year term of a Parliament.

Commencement of Bill

The key provisions in this Bill enabling a 4-year term of Parliament will only come into effect following a referendum where the majority of electors support this change. The question to be put to electors in a referendum and the wording of the 2 options for which electors may vote in response to the question are set out in the Bill.

Part 1 of Bill

Part 1 of the Bill amends the Constitution Act 1986. Section 17(1) of the Constitution Act currently provides that the term of a Parliament can run no longer than 3 years after the date fixed for the return of the writs issued for the preceding general election. The amendments allow the term of a Parliament to be extended to 4 years by a Proclamation issued by the Governor-General (on the advice of the Prime Minister) at the start of the term. A Proclamation can only be issued if the House of Representatives has passed a resolution within 3 months after the first meeting of Parliament after a general election confirming that the proportionality requirement is satisfied.

Part 2 of Bill

Part 2 of the Bill amends the Electoral Act 1993, and includes an amendment to section 268(1)(a), which entrenches the current 3-year parliamentary term. The amendment to this provision entrenches the following provisions inserted in the Constitution Act 1986 by *Part 1* of the Bill relating to a 4-year parliamentary term:

- *new section 17(2)*, so far as it relates to 4 years for a term of Parliament; and
- *new section 17(4)*, relating to the proportionality requirement for a 4-year term of Parliament.

Departmental disclosure statement

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2025&no=128>

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 25 September 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/>
- <https://www.regulation.govt.nz/our-work/regulatory-impact-statements/>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that—

- *clause 3* comes into force on the day after Royal assent; and
- the rest of the Bill comes into force on the day of the issue of the writ for the first general election held after the date on which it is officially declared that the majority of electors in a referendum support the Bill coming into force.

Clause 3 provides for the repeal of this legislation in specified circumstances.

Part 1

Amendments to Constitution Act 1986

Clause 4 provides that *Part 1* amends the Constitution Act 1986 (the **principal Act**).

Clause 5 amends section 17 of the principal Act (term of Parliament) to provide that the term of a Parliament is 4 years if the Governor-General, on the advice of the Prime Minister, issues a Proclamation declaring that the term of the Parliament is 4 years.

A Proclamation may only be issued if the House of Representatives has, not later than 3 months after the day Parliament first meets after a general election, passed a resolution confirming that the proportionality requirement is satisfied. The proportionality requirement is satisfied if the membership of subject select committees is such that the number of select committee memberships held by parties that have no executive members is greater than the memberships held by parties that have executive members. The issue of a Proclamation must be as soon as is reasonably practicable after the resolution of the House of Representatives is passed.

The terms executive member, non-executive member, party, and subject select committee are defined. An executive member is a member of Parliament who is a Minister or Parliamentary Under-Secretary. A non-executive member is a member of Parliament who is not a Minister or Parliamentary Under-Secretary. A party means a political party recognised as a political party for parliamentary purposes. A subject select committee has the meaning set out in the rules and practice of the House of Representatives.

A 4-year term of a Parliament is not affected if, at any subsequent time during the term of the Parliament, the proportionality requirement is no longer satisfied.

Part 2

Amendments to Electoral Act 1993

Clause 6 provides that *Part 2* amends the Electoral Act 1993 (the **principal Act**).

Clause 7 amends section 3B of the principal Act (meaning of regulated period: general election) to replace the definition of **default day** with a definition that takes into account that the term of a Parliament may be 3 or 4 years.

Clause 8 amends section 268 of the principal Act to include both *new section 17(2)* (so far as it relates to 4 years for a term of Parliament) and *new section 17(4)* of the Constitution Act 1986 (which are inserted by *clause 5*) as restricted provisions. The effect of this amendment is that these new provisions in the Constitution Act 1986 may not be repealed or amended unless the proposed repeal or amendment is passed by a majority of 75% of all the members of the House of Representatives or has been carried by a majority of the valid votes cast at a poll of the electors of the General and Māori electoral districts.

As the amendment in *clause 8* is a proposal for entrenchment, this clause itself will need to be passed by a majority of 75% of all the members of the House of Representatives.

Hon Paul Goldsmith

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Term of Parliament (Enabling 4-year Term) Legislation Amendment Act **2025**.

2 Commencement

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- (1) **Section 3** comes into force on the day after Royal assent.

- (2) The rest of this Act comes into force on the day of the issue of the writ for the first general election held after the date on which it is officially declared that the majority of electors in a referendum responded to the question specified in **subsection (3)** with the affirmative option specified in **subsection (4)**.
- (3) The wording of the question to be put to electors in a referendum for the purposes of **subsection (2)** is— 5
“Do you support the Term of Parliament (Enabling 4-year Term) Legislation Amendment Act **2025** coming into force?”
- (4) The wording of the 2 options for which electors may vote in response to the question in **subsection (3)** is— 10
“Yes, I support the Term of Parliament (Enabling 4-year Term) Legislation Amendment Act **2025** coming into force.”
“No, I do not support the Term of Parliament (Enabling 4-year Term) Legislation Amendment Act **2025** coming into force.”
- (5) This section overrides any other enactment to the extent that the enactment specifies any wording of the question or the options for the referendum that is different from the wording in **subsections (3) and (4)**. 15
- (6) In this section and **section 3, referendum**—
(a) means a referendum conducted concurrently with a general election that provides electors with an opportunity to decide whether this Act should come into force; and 20
(b) includes a fresh referendum required to be held if the High Court, on a petition, declares the referendum under **paragraph (a)** to be void.
- 3 Repeal**
- (1) This Act is repealed if— 25
(a) a referendum is held and a majority of electors voting in the referendum responded to the question in **section 2(3)** with the negative option in **section 2(4)**:
(b) no referendum is conducted concurrently with either of the next 2 general elections that are held subsequent to the commencement of this section. 30
- (2) The date of repeal is,—
(a) if **subsection (1)(a)** applies, the day that is 12 months after the date on which the result of the referendum is officially declared:
(b) if **subsection (1)(b)** applies, 31 October 2031. 35

Part 1 Amendments to Constitution Act 1986

4 Principal Act

This Part amends the Constitution Act 1986.

5 Section 17 amended (Term of Parliament)

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- (1) Before section 17(1), insert:

Three-year term of Parliament

- (2) Replace section 17(2) with:

Four-year term of Parliament

- (2) Despite **subsection (1)**, the term of a Parliament (unless it is sooner dissolved) 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, and no longer, if the Governor-General, on the advice of the Prime Minister, issues a Proclamation declaring that the term of the Parliament is 4 years. 10
- (3) A Proclamation may be issued under **subsection (2)** only if the House of Representatives has, not later than 3 months after the day Parliament first meets after a general election, passed a resolution confirming that the proportionality requirement in **subsection (4)** is satisfied. 15
- (4) The proportionality requirement referred to in **subsection (3)** is that the membership of the subject select committees is such that the number of select committee memberships held by parties that have non-executive members is greater than the memberships held by parties that have executive members, determined by taking the following steps: 20
- (a) first, determining the number of seats in the House of Representatives held by the non-executive members (**the non-executive seats**); and 25
- (b) second, determining the proportion of the non-executive seats held by the parties that have executive members and the proportion of the non-executive seats held by the parties that do not have executive members; and
- (c) third, applying each of the proportions calculated in **paragraph (b)** to the total membership of the subject select committees. 30

Example

There are 120 seats in the House of Representatives, 89 of which are held by non-executive members.

There are 3 parties that have executive members and collectively these parties hold 67 seats, of which 31 are executive members and 36 are non-executive members. These parties hold 36/89 (0.4045) of the non-executive seats in the House of Representatives. 35

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There are 3 parties that have no executive members and collectively these parties hold 53 seats. These parties hold 53/89 (0.5955) of the non-executive seats in the House of Representatives.

The Business Committee has determined the size of each of the subject select committees with a resulting total membership across all committees of 110. 5

Applying the above ratios to the total membership of the subject select committees of 110 gives the following result:

- 44 members from parties that have executive members (110 x 0.4045 rounded to the nearest whole number); and
- 66 members from parties that have no executive members (110 x 0.5955 rounded to the nearest whole number). 10

In this case, the proportionality requirement is satisfied because the number of select committee memberships held by parties that have no executive members is greater than the memberships held by parties that have executive members.

(5) The issue of a Proclamation under **subsection (2)** must be as soon as is reasonably practicable after the resolution referred to in **subsection (3)** is passed by the House of Representatives. 15

(6) A 4-year term of a Parliament is not affected if, at any time after a Proclamation is issued under **subsection (2)**, the proportionality requirement in **subsection (4)** is not satisfied. 20

Definitions

(7) In this section,—

executive member means a member of Parliament who is a Minister or Parliamentary Under-Secretary

non-executive member means a member of Parliament who is not a Minister or Parliamentary Under-Secretary 25

party means a political party for the time being recognised as a party for parliamentary purposes in accordance with the rules and practice of the House of Representatives

subject select committee has the meaning set out in the rules and practice of the House of Representatives. 30

Guidance note

Under **section 268(1)(a)** of the Electoral Act 1993, section 17(1), **(2)** (so far as it relates to 4 years for a term of Parliament), and **(4)** are reserved provisions.

This means that those provisions cannot be repealed or amended unless the proposal for the repeal or amendment— 35

- is passed by a majority of 75% of all the members of the House of Representatives; or
- has been carried by a majority of the valid votes cast at a poll of the electors of the General and Maori electoral districts. 40

Part 2 Amendments to Electoral Act 1993

6 Principal Act

This Part amends the Electoral Act 1993.

7 Section 3B amended (Meaning of regulated period: general election) 5

In section 3B(5), replace the definition of **default day** with:

default day means,—

- (a) if the term of Parliament is 3 years, the day that is 2 years and 9 months after the polling day for the preceding general election: 10
- (b) if the term of Parliament is 4 years, the day that is 3 years and 9 months after the polling day for the preceding general election

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

Replace section 268(1)(a) with:

- (a) the following provisions of the Constitution Act 1986: 15
 - (i) section 17(1), relating of the term of Parliament:
 - (ii) **section 17(2)**, so far as it relates to 4 years for a term of Parliament:
 - (iii) **section 17(4)**, relating to the proportionality requirement for a 4-year term of Parliament: 20