

Electoral (Right to Switch Rolls Freely) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill would amend the Electoral Act 1993 to enable Māori voters to switch between the Māori and non-Māori electoral rolls at any time.

There are only two opportunities for Māori to choose electoral rolls; either at the time of initial enrolment or during the Māori electoral option period. The Māori electoral option period only takes place over a four-month period every five to six years. The last one was in 2018. The next one is due to take place in 2024. The infrequency of the option disenfranchises Māori voters from exercising their choice.

Since the 2018 Māori electoral option, more than 16,000 Māori contacted the Electoral Commission requesting to change electoral rolls but could not due to the Māori electoral option. The current timing of the option does not reflect the demands of Māori voters. We are concerned that this has led to thousands of Māori disengaging from the electoral process altogether.

Since 2011, the Electoral Commission has proposed legislative changes which would address this issue, and in the 2017 Report on the General Election, they recommended “that voters of Māori descent be able to change roll type at any time [as this] would better meet the needs of Māori voters”.

Electoral participation is a basic right for Māori to exercise in Aotearoa. There should be no barriers for Māori participating in the electoral process.

This Bill would:

- Allow Māori to change between the Māori and general electoral rolls at any time.
- Change the periodic requirement to redraw electoral boundaries from after each census to a set date no later than two years after each general election.

- Set a legislative requirement that if someone stipulates they are Māori when enrolling but doesn't choose an electoral roll, they are placed on the Māori electoral roll.
- Change the name of 'general electoral district' to 'non-Māori electoral district' – it creates potential confusion for Māori voters that the term 'general' is applied both to the electoral district and roll, as well as the national elections, in which Māori electoral districts are also being voted in.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the Royal assent except Part 3 and new section 78A, which come into force after the return of the writ of the next general election after this bill receives the Royal assent as they are time bound to the most recent previous election.

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

Part 1

Amendments to Maori Electoral Option

Clause 4 amends the definition of **Maori electoral population** to be calculated from the date determined by the Commission in accordance with new section 34A

Clause 5 makes amendments consequential on the repeal of section 77 and inserts a new requirement that on first registration as an elector, any person who is qualified to register as a Māori elector but does not specify which roll they wish to be enrolled on will be automatically enrolled on the Māori electoral roll.

Clause 6 repeals section 77 which set the periodic Māori electoral option.

Clause 7 replaces section 78 with a new section 78 that allows a qualified person to exercise the Māori option at any time. It also inserts new section 78A which requires the Electoral Commission, in accordance with new section 34A, to regularly notify any elector who has notified the Electoral Commission that they are Māori of their ability to exercise the Māori option.

Part 2

Drawing of Electoral Boundaries

Clause 8 inserts new section 34A which requires the Commission to determine and publish after each election, the dates on which the Electoral Commission must notify of the right to exercise the Māori option, the date with which it will provide the Government Statistician the information needed to determine the electoral populations, and the date on which the electoral boundaries will be determined. The dates for each of these must be no later than 2 years after the last previous general election to allow electoral boundaries to be determined after each election instead of after each census.

Clause 9 makes amendments consequential on new section 34A, including that the Government Statistician will determine the electoral populations using the information supplied under new section 45(3A) and the most recent census data available.

Clause 10 amends section 40 to require that the day the Commission must report to the Governor-General about new electoral districts and publish a notice in the Gazette is to be determined under new section 34A.

Clause 11 amends section 45 to insert requirements to provide the Government Statistician with the information necessary to determine the Māori electoral population that were previously contained in section 77. Consequential amendments are also made to ensure actions are taken in accordance with the dates determined under new section 34A.

Part 3

Non-Māori Electoral Districts

Part 3 amends the term **General** in reference to electoral districts and the electoral population to be **Non-Māori** and replaces all instances across the principal Act.

Rawiri Waititi

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electoral (Right to Switch Rolls Freely) Amendment Act **2022**.

2 Commencement

- (1) The Act comes into force on the day after it receives the Royal assent, except as provided for in **subsection (2)**. 5
- (2) **Part 3** and **section 78A** come into force on the day after the date of the return of the writ for the first general election conducted after this Act receives the Royal assent.

3 Principal Act

This Act amends the Electoral Act 1993 (the **principal Act**). 10

Part 1

Amendments to Maori Electoral Option

4 Section 3 amended (Interpretation)

In section 3(1), definition of **Maori electoral population**, paragraph (a)(i), replace “the last day of the period specified in the last notice published under section 77(2)” with “the date of reporting by the Government Statistician”. 15

5 Section 76 amended (Maori option)

- (1) In section 76(1), replace “sections 77 to 79” with “sections 78 and 79”.
- (2) Repeal section 76(2)(b).
- (3) In section 76(2)(c), delete “section 77 or”.
- (4) After subsection (2), insert: 5
- (3) Where a Maori, who possesses the qualifications in that behalf by this Act and first applies to be registered as an elector, does not specify whether they wish to be registered either as an elector of a Maori electoral district or as an elector of a non-Māori electoral district, they must be registered as an elector of a Maori electoral district. 10

6 Section 77 repealed (Periodic exercise of Maori option and determination of Maori electoral population)

Repeal section 77.

7 Section 78 replaced (Exercise of Maori option)

Replace section 78 with: 15

78 Exercise of Maori option

- (1) Every person eligible under section 76(1) may exercise the Maori option at any time by advising the Electoral Commission that they wish to be registered as an elector of—
 - (a) a non-Māori electoral district; or 20
 - (b) a Maori electoral district.
- (2) An eligible individual who wishes to exercise the Maori option under section 76(1) must advise the Electoral Commission by—
 - (a) indicating their choice by completing a notice received under **section 78A** and then returning the notice to the Electoral Commission: 25
 - (b) advising their choice in writing to the Electoral Commission:
 - (c) indicating their choice using an approved electronic medium:
 - (d) completing an application for registration as an elector in accordance with section 83.
- (3) An eligible individual who is outside New Zealand, or who has a physical or mental impairment, may exercise the Maori option through a representative, and section 86 applies with any necessary modifications. 30
- (4) Advice received under **subsection 1** is deemed to be an application for registration as an elector for the purposes of—
 - (a) the definition of **electoral roll** in section 3(1); and 35
 - (b) sections 89A, 98(g), and 103.

- (5) An eligible person who receives a notice sent under **section 78A** but who does not exercise the option given in section 76(1) continues to be registered on the electoral roll of the electoral district in which they are currently registered.
- 78A Electoral Commission to notify the Maori option** 5
- (1) The Electoral Commission must, after each general election is held and in accordance with a determination made under **section 34A**, send a notice to—
- (a) every person registered as an elector of a Maori electoral district; and
 - (b) every person registered as an elector of a non-Māori electoral district who has,— 10
 - (i) specified that they are Maori in their application for registration as an elector; or
 - (ii) notified the Electoral Commission that they are Maori in response to an inquiry under section 89D.
- (2) A notice under **subsection (1)** must— 15
- (a) contain particulars about whether the person to whom it is addressed is currently registered as an elector of a Maori electoral district or a non-Māori Electoral District; and
 - (b) advise the person to whom it is addressed that they may exercise the option under section 76(1); and 20
 - (c) provide advice on how to exercise the option in accordance with **section 78(2)**.
- (3) In this section, **person registered as an elector** includes a person of or over the age of 17 years who has had an application under section 82(2) to register as an elector accepted by the Electoral Commission. 25

Part 2

Drawing of Electoral Boundaries

8 New section 34A inserted (Commission to set dates)

After section 34, insert:

- 34A Commission to set dates** 30
- (1) As soon as possible after each general election, the Commission must determine:
- (a) the date on which the Electoral Commission must notify the Maori option in accordance with **section 78A(1)**;
 - (b) the date on which it will supply the Government Statistician with the information required under section 35; 35

- (c) the date on which the Government Statistician must report the electoral populations under section 35(6); and
 - (d) the date on which it will effect the subsequent division as required by section 35(2)(c) and report the names and boundaries of the electoral districts. 5
- (2) The dates specified in **subsection (1)** must be no later than 24-months after the date of the most recent previous general election.
 - (3) The determination in **subsection (1)** must be notified in the *Gazette*.
 - (4) A determination made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 10

9 Section 35 amended (Division of New Zealand into General electoral districts)

- (1) In section 35(2)(c), replace “only after each subsequent periodical census and on no other occasion” with “periodically, on the date appointed by the Commission in accordance with **section 34A**”. 15
- (2) In section 35(4), replace “after each periodical census” with “after each general election”.
- (3) Replace subsections (5) and (6) with:
- (5) On the date specified in the determination made under **section 34A**, the Electoral Commission shall supply to the Government Statistician with the information that the Electoral Commission is required to supply to the Government Statistician under **section 45(3A)** 20
- (6) When the Government Statistician has received, on the date specified in **section 34A**— 25
 - (a) the results of the most recent census; and
 - (b) the information the Electoral Commission must supply under **section 45(3A)**—the Government Statistician shall thereupon report the results of the non-Māori electoral population and Maori electoral population as at the day of reporting to the Surveyor-General and to the other members of the Commission. 30

10 Section 40 amended (Report of Commission)

Replace subsection (1) with:

- (1) On the date determined under **section 34A**, the Commission shall,— 35
 - (a) report to the Governor-General the names and boundaries of the electoral districts fixed by the Commission; and
 - (b) publish in the *Gazette* a notice—
 - (i) stating that the Commission has fixed the names and boundaries of the electoral districts; and

- (ii) stating that the names and boundaries of the electoral districts fixed by the Commission are available for public inspection; and
- (iii) stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge (which places must include the offices of the Electoral Commission). 5

11 Section 45 amended (Maori representation)

(1) After section 45(3), insert:

(3A) For the purpose of enabling the Government Statistician to calculate the Maori electoral population, the Electoral Commission must, on the date determined under **section 34A**, supply to the Government Statistician— 10

- (a) the total number of persons registered as electors of the Maori electoral districts at that date; and
- (b) the total number of persons registered as electors of non-Māori electoral districts who, at that date, are recorded as having notified the Electoral Commission that they are Maori; and 15
- (c) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for the Maori electoral districts; and
- (d) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for non-Māori electoral districts who are recorded as having notified the Electoral Commission that they are a person of Maori descent. 20

(2) Replace subsection (9) with:

(9) On the date determined under **section 34A**, the Commission shall,— 25

- (a) report to the Governor-General the names and boundaries of the Maori electoral districts fixed by the Commission; and
- (b) publish in the Gazette a notice—
 - (i) stating that the Commission has fixed the names and boundaries of the Maori electoral districts; and
 - (ii) stating that the names and boundaries of the electoral districts fixed by the Commission are available for public inspection; and 30
 - (iii) stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge (which places must include the offices of the Electoral Commission). 35

Part 3

Non-Māori Electoral Districts

12 Section 3 amended (Interpretation)

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

Non-Māori electoral district means an electoral district other than a Maori electoral district 5

Non-Māori electoral population means the total ordinarily resident population as shown in the last periodical census of population and dwellings with the exception of the Maori electoral population

(2) In section 3(1), definition of **district** or **electoral district** or **electorate** replace “General electoral district” with “non-Māori electoral district”. 10

(3) In section 3(1), definition of **Maori electoral population**, replace “General electoral districts” with “non-Māori electoral districts” at each instance.

13 Section 35 amended (Division of New Zealand into General electoral districts) 15

(1) Replace the heading to section 35 with “**Division of New Zealand into non-Māori electoral districts**”.

(2) In section 35, replace “General electoral” with “non-Māori electoral” at each instance.

14 Section 36 amended (Allowance for adjustment of quota) 20

In section 36, replace “General electoral” with “non-Māori electoral” at each instance.

15 Section 45 amended (Maori Representation)

In section 45(3), replace “General electoral” with “non-Māori electoral”.

16 Section 46 amended (Electoral districts for and polling in Chatham Islands) 25

In section 46, replace “General electoral” with “non-Māori electoral” at each instance.

17 Section 76 amended (Maori option)

In section 76(1), replace “General electoral” with “non-Māori electoral”. 30

18 Section 77 amended (Periodic exercise of Maori option and determination of Maori population)

In section 77, replace “General electoral” with “non-Māori electoral” at each instance.

- 19 Section 78 amended (Exercise of Maori option)**
In section 78, replace “General electoral” with “non-Māori electoral” at each instance.
- 20 Section 79 amended (Restriction of transfer between General and Maori electoral rolls)** 5
In section 79(a), replace “General electoral” with “non-Māori electoral”.
- 21 Section 82 amended (Compulsory registration of electors)**
In section 82(4), replace “General electoral” with “non-Māori electoral”.
- 22 Section 86B amended (Prison manager to collect and send enrolment information to Electoral Commission)** 10
In section 86B(1)(a), replace “General electoral” with “non-Māori electoral”.
- 23 Section 110 amended (Public inspection of rolls, etc)**
In section 110(8), replace “General electoral” with “non-Māori electoral”.
- 24 Section 268 amended (Restriction on amendment or repeal of certain provisions)** 15
In section 268(1)(c), replace “General electoral” with “non-Māori electoral”.
- 25 Section 269 amended (Membership of Representation Commission)**
In section 269, replace “General electoral” with “non-Māori electoral” at each instance.
- 26 Section 270 amended (Electoral districts, electoral rolls, general elections, and by-elections)** 20
In section 270(1), replace “General electoral” with “non-Māori electoral”.