



Electoral Amendment Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 22nd day of June 2020

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 267 of the Electoral Act 1993 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Electoral Amendment Regulations 2020.

2 Commencement

These regulations come into force on 27 July 2020.

3 Principal regulations

These regulations amend the Electoral Regulations 1996 (the **principal regulations**).

4 Regulation 23A amended (Telephone dictation of vote by special voter with disability)

Replace regulation 23A(5)(d) with:

- (d) arrangements for the envelopes containing special votes recorded under this regulation to be marked with the Electoral Commission's official mark and then to be—
 - (i) forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) placed in a box or receptacle that is specially provided for the votes of special voters.

5 New regulation 24B inserted (Special vote by person affected by significant event)

After regulation 24A, insert:

24B Special vote by person affected by significant event

- (1) This regulation applies to any person in New Zealand who is qualified to vote at an election in any district as a special voter because the person has satisfied the Electoral Commission that, as a result of a significant event, it will not be practicable for the person to vote at a polling place in a district without incurring hardship or serious inconvenience.
- (2) A person to whom this regulation applies may request the Electoral Commission to have the papers referred to in regulation 21 issued to them in 1 of the following ways:
 - (a) by dictation, if for the particular election a system allowing special votes by dictation is made available by the Electoral Commission;
 - (b) electronically;
 - (c) by facsimile.
- (3) A request under subclause (2) may be made during the period—
 - (a) beginning the day on which an advance polling place is open for voting in the district in which the person is qualified to vote; and
 - (b) ending at noon on polling day.
- (4) If the Electoral Commission grants a request under subclause (2)(a) and allows a person to vote by dictation, regulation 23A applies with all necessary modifications.
- (5) If the Electoral Commission grants a request under subclause (2)(b) and allows a person to vote electronically, regulation 45A(4) and (5) applies with all necessary modifications.
- (6) If the Electoral Commission grants a request under subclause (2)(c) and allows a person to vote by facsimile, a copy of the official mark of the Electoral Commission must be present on the ballot papers and declarations.
- (7) A person to whom papers have been issued under subclause (5) must return the papers to the Electoral Commission electronically in a manner specified by the Electoral Commission.
- (8) Papers returned electronically or by facsimile must be received by the Electoral Commission before the close of the poll.
- (9) An Electoral Commissioner or electoral official who, on behalf of the Electoral Commission receives any papers electronically in accordance with subclause (7) or (8), or by facsimile in accordance with subclause (8), must immediately—

- (a) print the ballot paper and voting papers, and the declaration, if received electronically; and
 - (b) ensure that the time and date of receipt of the ballot paper, any voting papers, and the declaration at the Electoral Commission are endorsed on those papers; and
 - (c) after taking all reasonable steps to preserve the secrecy of the ballot, place the ballot paper, any voting papers, and the declaration in the appropriate compartments of a special voter envelope; and
 - (d) mark the envelope with the Electoral Commission’s official mark and then—
 - (i) forward the envelope to the Returning Officer for the district for which the vote was issued; or
 - (ii) deal with the envelope in accordance with regulations 32 to 42, and references in those regulations to a Returning Officer must be read as references to an Electoral Commissioner or electoral official.
- (10) This regulation does not apply to any person if—
- (a) the Chief Electoral Officer has exercised his or her discretion under section 195B of the Act to use alternative voting processes in the district in which the person is qualified to vote; and
 - (b) the person is able to use those alternative voting processes to vote.
- (11) In this regulation, **significant event**, in relation to an elector, means an event or circumstance caused by adverse weather conditions, or an occurrence beyond the control of the elector, that impedes the elector’s travel to a polling place (for example, road closures due to storm damage or flooding).

6 Regulation 27 amended (Voting by special voter)

In regulation 27(1)(b), delete “under regulation 23A or 58”.

7 Regulation 30 amended (Delivery of special votes to Returning Officer)

Replace regulation 30(3) with:

- (3) After marking an envelope in accordance with regulation 29(3) or (4), the Electoral Commissioner or electoral official must immediately—
 - (a) arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (b) deal with the envelope in accordance with regulations 32 to 42, and references in those regulations to a Returning Officer must be read as references to an Electoral Commissioner or electoral official.

8 Regulation 34 amended (Disallowance of special votes received late)

- (1) In regulation 34(1), after “vote”, insert “issued under this Part”.

- (2) Replace regulation 34(2)(b) and (c) with:
- (b) in the case of a vote issued under Part 3, the envelope was not received in accordance with—
 - (i) regulation 50(1)(a), (b), or (c); or
 - (ii) regulation 50(2); or
 - (iii) regulation 50(3)(a), (b), or (c); or
 - (c) in the case of a vote issued under Part 4, the envelope was not received in accordance with—
 - (i) regulation 63A(1)(a) or (b); or
 - (ii) regulation 63A(2)(a) or (b); or
 - (iii) regulation 63A(3)(a), (b), (c), or (d).

9 New regulation 44A inserted (Application for special vote by persons outside New Zealand)

After regulation 44, insert:

44A Application for special vote by persons outside New Zealand

- (1) A person who is qualified to vote at an election in any district and who is outside New Zealand (an **overseas elector**) may apply to vote as a special voter.
- (2) An application may be made in any of the ways specified in regulation 20.
- (3) Voting papers may be issued to an overseas elector—
 - (a) in person, under regulation 45; or
 - (b) by post, under regulation 45, if the Electoral Commission considers there is sufficient time for the overseas elector to receive the voting papers by post and make arrangements for their return; or
 - (c) electronically, under regulation 45A.
- (4) In this regulation, **voting papers** means the documents referred to in regulation 43(2) or (3).

10 Regulation 47 amended (Special votes may be returned by personal delivery or post)

Replace regulation 47(3) with:

- (3) An envelope delivered by post under subclause (1)(b) must be—
 - (a) postmarked or date-stamped before polling day; and
 - (b) received by the Returning Officer in New Zealand or the Electoral Commission not later than noon New Zealand time on the ninth day after polling day.

11 Regulation 48 amended (Endorsement and posting of envelopes)

- (1) Replace regulation 48(4) with:
- (4) Immediately after marking an envelope in accordance with subclause (1) or (2), a Returning Officer in New Zealand, if that officer is not the Returning Officer for the district for which the vote was issued, must post or forward the envelope to—
- (a) the Returning Officer for the district for which the vote was issued; or
 - (b) the Electoral Commission.
- (4A) Immediately after marking an envelope in accordance with subclause (1) or (2), a Returning Officer in New Zealand, if the Returning Officer for the district in which the vote was issued, may post or forward the envelope to the Electoral Commission.
- (2) Replace regulation 48(7) with:
- (7) After marking an envelope in accordance with subclause (5) or (6), the Electoral Commissioner or electoral official must immediately—
- (a) arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (b) place the envelope in a box or receptacle that is specially provided for the votes of special voters.

12 Regulation 48A amended (Receipt of special votes by facsimile)

Replace regulation 48A(4) with:

- (4) After marking an envelope in accordance with subclause (2) or (3), the Electoral Commissioner or electoral official must immediately—
- (a) arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (b) place the envelope in a box or receptacle that is specially provided for the votes of special voters.

13 Regulation 48B amended (Receipt of special votes electronically)

Replace regulation 48B(d) with:

- (d) mark the envelope with the Electoral Commission's official mark and immediately—
- (i) arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) place the envelope in a box or receptacle that is specially provided for the votes of special voters.

14 Regulation 50 amended (Overseas special votes received in time)

Replace regulation 50(2) with:

- (2) This regulation also applies to every envelope containing a special vote issued under this Part that is received by the Electoral Commission from a Returning Officer under regulation 48(4)(b)—
 - (a) before the close of the poll; or
 - (b) after the close of the poll but not later than 7pm on the tenth day following polling day and marked under regulation 48(1).
- (3) This regulation also applies to every envelope containing a special vote issued under this Part that is marked by an Electoral Commissioner or electoral official—
 - (a) under regulation 48(5), and placed in a box or receptacle in accordance with regulation 48(7)(b):
 - (b) under regulation 48A(2), and placed in a box or receptacle in accordance with regulation 48A(4)(b):
 - (c) under regulation 48B(d), and placed in a box or receptacle in accordance with subparagraph (ii) of that paragraph.
- (4) Regulations 32, 33, and 35 to 42 apply in respect of an envelope described in subclause (1), (2), or (3), and all references in those regulations to a Returning Officer must be read as references also to an Electoral Commissioner or electoral official.
- (5) After extracting from an envelope a declaration form completed by a member of the New Zealand Defence Force, the Returning Officer, Electoral Commissioner, or electoral official (as the case may be) must—
 - (a) securely attach the envelope to the declaration form; and
 - (b) take the action required under regulation 52 (and for this purpose references in that regulation to a Returning Officer must be read as references also to an Electoral Commissioner or electoral official).

15 Regulation 51 replaced (Overseas special votes received late)

Replace regulation 51 with:

51 Overseas special votes received late

- (1) This regulation applies in respect of every envelope appearing to contain a special vote issued under this Part and to which regulation 50 does not apply.
- (2) The Returning Officer for the district for which the vote was issued, an Electoral Commissioner, or an electoral official (as the case may be) must—
 - (a) extract the declaration form from the envelope; and
 - (b) disallow the vote; and
 - (c) set the envelope aside without opening the compartment labelled “BALLOT AND/OR VOTING PAPERS”; and

- (d) write across both the declaration form and the envelope “Disallowed, received late”.
- (3) Regulations 35 to 42 apply in respect of the envelope and all references in those regulations to a Returning Officer must be read as references also to an Electoral Commissioner or electoral official.

16 Regulation 58 amended (Dictation of special votes)

Replace regulation 58(1)(d) with:

- (d) arrangements for the envelopes containing special votes recorded under this regulation to be marked with the Electoral Commission’s official mark and then to be—
 - (i) forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) placed in a box or receptacle that is specially provided for the votes of special voters.

17 Regulation 59 amended (Return of special votes)

Replace regulation 59(4) with:

- (4) An envelope delivered by post under subclause (1)(b) must be—
 - (a) postmarked or date-stamped before polling day; and
 - (b) received by the Returning Officer in New Zealand, or the Electoral Commission, not later than noon New Zealand time on the ninth day after polling day.

18 Regulation 60 amended (Receipt of special votes by hand or post)

(1) Replace regulation 60(6) with:

- (6) Immediately after marking an envelope in accordance with subclause (4) or (5), a Returning Officer in New Zealand, if that officer is not the Returning Officer for the district for which the vote was issued, must post or forward the envelope to—
 - (a) the Returning Officer for the district for which the vote was issued; or
 - (b) the Electoral Commission.
- (6A) Immediately after marking an envelope in accordance with subclause (4) or (5), a Returning Officer in New Zealand, if that officer is the Returning Officer for the district in which the vote was issued, may post or forward the envelope to the Electoral Commission.

(2) Replace regulation 60(9) with:

- (9) After marking the envelope in accordance with subclause (7) or (8), the Electoral Commissioner or electoral official must immediately—

- (a) arrange for the envelope to be posted or forwarded to the Returning Officer for the district for which the vote was issued; or
- (b) place the envelope in a box or receptacle that is specially provided for the votes of special voters.

19 Regulation 62 amended (Receipt of special votes by facsimile)

Replace regulation 62(2)(d) with:

- (d) arrange for the envelope to be—
 - (i) posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) placed in a box or receptacle that is specially provided for the votes of special voters.

20 Regulation 63 amended (Receipt of special votes by electronic transmission)

Replace regulation 63(2)(e) with:

- (e) arrange for the envelope to be—
 - (i) posted or forwarded to the Returning Officer for the district for which the vote was issued; or
 - (ii) placed in a box or receptacle that is specially provided for the votes of special voters.

21 Regulation 63A amended (Special votes under this Part received in time)

Replace regulation 63A(2) with:

- (2) This regulation also applies to every envelope containing a special vote issued under this Part that is received by the Electoral Commission from a Returning Officer under regulation 60(6)(b)—
 - (a) before the close of the poll; or
 - (b) after the close of the poll but not later than 7pm on the tenth day following polling day and marked under regulation 60(4).
- (3) This regulation also applies to every envelope containing a special vote issued under this Part that is marked by an Electoral Commissioner or electoral official—
 - (a) under arrangements made pursuant to regulation 58(1)(d), and placed in a box or receptacle in accordance with subparagraph (ii) of that paragraph;
 - (b) under regulation 60(7), and placed in a box or receptacle in accordance with regulation 60(9)(b);
 - (c) under regulation 62(2)(c), and placed in a box or receptacle in accordance with regulation 62(2)(d)(ii):

- (d) under regulation 63(2)(d), and placed in a box or receptacle in accordance with regulation 63(2)(e)(ii).
- (4) Regulations 32, 33, and 35 to 42 apply in respect of an envelope described in subclauses (1), (2), and (3), and all references in those regulations to a Returning Officer must be read as references also to an Electoral Commissioner or electoral official.

22 Regulation 64 amended (Special votes under this Part received late)

In regulation 64(2), after “issued”, insert “, Electoral Commission, Electoral Commissioner, or electoral official (as the case may be)”.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 27 July 2020, amend the Electoral Regulations 1996 (the **principal regulations**).

The purpose of these regulations is to improve the procedures for the processing of special votes, and also to enable persons who cannot access a polling place because of a significant event to apply to vote as a special voter.

These regulations amend the principal regulations to—

- allow the Electoral Commission to exercise a discretion to process any votes that the Commission receives from special voters by post, fax, electronic transmission, or dictation rather than forwarding these votes to the Returning Officers for processing:
- insert a *new regulation 24B* to allow the Electoral Commission to exercise a discretion to permit a person to vote as a special voter by dictation, electronic transmission, or facsimile if, as a result of a significant event, it is not practicable for the person to get to a polling place without incurring hardship or serious inconvenience:
- extend the deadline for overseas postal votes to be postmarked or date-stamped from the current deadline of at least 2 days before polling day to the day before polling day:
- extend the deadline for the receipt of overseas postal votes by a Returning Officer in New Zealand or the Electoral Commission from the current deadline of 4 days after polling day to 9 days after polling day:

- allow Returning Officers in New Zealand to exercise a discretion to forward votes received by post from special voters overseas to the Electoral Commission for processing.

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Justice.