

Version
as at 16 October 2021



Electoral Amendment Regulations (No 2) 2020 (LI 2020/166)

Electoral Amendment Regulations (No 2) 2020: revoked, on 16 October 2021, by regulation 6.

Patsy Reddy, Governor-General

Order in Council

At Wellington this 27th day of July 2020

Present:

The Right Hon Jacinda Ardern presiding 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.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 New regulation 42A and cross-heading inserted	2
<i>Temporary provisions</i>	
42A Application of temporary provisions in Schedule 3	2
5 New Schedule 3 inserted	3
6 Revocation	3

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

Schedule
New Schedule 3 inserted

3

Regulations

1 Title

These regulations are the Electoral Amendment Regulations (No 2) 2020.

2 Commencement

These regulations come into force on 31 July 2020.

3 Principal regulations

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

4 New regulation 42A and cross-heading inserted

Immediately after regulation 42, insert:

Temporary provisions

42A Application of temporary provisions in Schedule 3

- (1) The temporary provisions set out in Schedule 3 are for the purposes of the general election and referendums to be held on 19 September 2020 and apply during the period—
 - (a) beginning on 31 July 2020; and
 - (b) ending on 15 October 2020.
- (2) The temporary provisions have the following effect while they apply:
 - (a) clause 1 of Schedule 3 replaces regulation 20:
 - (b) clause 2 of Schedule 3 replaces regulations 25 and 26:
 - (c) clause 3 of Schedule 3 replaces regulation 27:
 - (d) clause 4 of Schedule 3 replaces regulation 37.
- (3) During the application of the temporary provisions, regulations 20, 25, 26, 27, and 37 are suspended.
- (4) During the application of the temporary provisions, a cross-reference in the principal regulations or any other enactment or document to a suspended provision is to be treated as a cross-reference to the corresponding replacement provision.
- (5) This regulation and Schedule 3 are revoked on 16 October 2020.
- (6) Despite subclause (5), this regulation and Schedule 3 continue to have effect for the purpose of determining—

- (a) any election petition presented to the High Court or Court of Appeal under the Act relating to the general election to be held on 19 September 2020;
- (b) any petition to the High Court under the Referendums Framework Act 2019 relating to the referendums to be held on 19 September 2020;
- (c) any recount of votes cast by electors at the general election or the referendums to be held on 19 September 2020.

5 New Schedule 3 inserted

After Schedule 2, insert the Schedule 3 set out in the Schedule of these regulations.

6 Revocation

These regulations are revoked on 16 October 2021.

Schedule
New Schedule 3 inserted

r 5

Schedule 3
Temporary provisions

r 42A

1 Application for special vote

An application for a special vote may be made—

- (a) in person by the elector; or
- (b) by a written application—
 - (i) signed by the elector; or
 - (ii) signed on behalf of the elector under an authority signed by the elector; or
- (c) in any other manner approved by the Electoral Commission (for example, by telephone).

2 Declaration by special voter

- (1) Every person who makes a declaration as a special voter under this clause or Part 3 must indicate in the declaration the ground or grounds on which the person is claiming a special vote.
- (2) A declaration must be in a form approved by the Electoral Commission and witnessed by a qualified witness.
- (3) A **qualified witness** is a person who—

- (a) is authorised to take statutory declarations under the Oaths and Declarations Act 1957; or
 - (b) is registered as an elector of an electoral district; or
 - (c) is approved by a Returning Officer to witness a declaration; or
 - (d) is a relative of the declarant; or
 - (e) is a member of the declarant’s household.
- (4) However, a declaration that is made by a person as a special voter in New Zealand need not be witnessed if—
- (a) the declarant is making the declaration in a place other than—
 - (i) a polling place; or
 - (ii) a hospital, a maternity home, or an institution referred to in regulation 19(4); or
 - (iii) a prison; or
 - (iv) a place of isolation or quarantine at which they are required to remain by—
 - (A) an order made under section 11(1) of the COVID-19 Public Health Response Act 2020; or
 - (B) a medical officer of health under the Health Act 1956; and
 - (b) the declarant has satisfied the Electoral Commission that because of the declarant’s circumstances it is not reasonable to require that their declaration be witnessed by a qualified witness.

3 Voting by special voter

- (1) The vote of an elector voting as a special voter must be exercised—
- (a) in the manner prescribed by this clause; or
 - (b) in accordance with any arrangements made by the Electoral Commission.
- (2) If the elector applies in person for a special vote, the Issuing Officer must, after the elector has made the declaration,—
- (a) place the declaration in the compartment of the envelope marked “Declaration”; and
 - (b) seal that compartment and hand to the elector—
 - (i) the envelope; and
 - (ii) a special ballot paper; and
 - (iii) any voting papers issued under any enactment.
- (3) If the elector does not apply in person for a special vote, the elector must, after making the declaration, place the declaration in the compartment of the envelope marked “Declaration”.

- (4) When the declaration has been dealt with as required by subclause (2) or (3), the elector must then alone and secretly—
 - (a) mark the party vote portion of the ballot paper with a tick within the circle immediately after the name of the party for which the elector wishes to vote; and
 - (b) mark the electorate vote portion of the ballot paper with a tick within the circle immediately before the name of the constituency candidate for whom the elector wishes to vote; and
 - (c) mark any voting paper in accordance with the instructions on that voting paper.
- (5) The ballot paper and any voting papers must then be placed in the compartment of the envelope marked “BALLOT AND/OR VOTING PAPERS” and the compartment sealed.
- (6) If an elector exercises a special vote in a polling place, the envelope must be deposited as an Issuing Officer directs either in the ballot box or in a receptacle specially provided for the votes of special voters, and every envelope is deemed to have been received by the Issuing Officer for that polling place at the time it was deposited.
- (7) If any elector exercises a special vote other than in a polling place, the elector may arrange for the envelope to be delivered to a Returning Officer or an Issuing Officer—
 - (a) by hand; or
 - (b) by post.
- (8) An envelope delivered by hand under subclause (7)(a) must be received before the close of the poll.
- (9) An envelope delivered by post under subclause (7)(b) must be received—
 - (a) on or before polling day; or
 - (b) no later than noon on the fourth day following polling day if postmarked or date-stamped by any New Zealand Post outlet or agency before polling day.
- (10) An elector may vote in accordance with subclause (11) or (12) if the elector—
 - (a) is wholly or partially blind; or
 - (b) is unable to read or write; or
 - (c) has severe difficulty in reading or writing; or
 - (d) is not sufficiently familiar with the English language to vote without assistance.
- (11) If an elector to whom subclause (10) applies votes at a polling place, section 170 of the Act applies with any necessary modifications.

- (12) If an elector to whom subclause (10) applies does not vote at a polling place, the person who witnessed the elector's declaration must or, if the elector's declaration was not required to be witnessed, any person who is qualified to witness a declaration may—
- (a) assist the elector to mark the ballot paper and any voting papers; or
 - (b) mark the ballot paper and any voting papers as instructed by the elector.

4 Allowance or disallowance of votes by Returning Officer

- (1) If the words "Not qualified" are shown on a declaration, the Returning Officer must disallow the vote of the elector named in the declaration form.
- (2) If the words "Party vote qualified" are shown on a declaration, the Returning Officer must allow the party vote, but disallow the electorate vote, of the elector named in the declaration form unless the Returning Officer is required to disallow the party vote in accordance with subclause (4), (5), or (6).
- (3) If the word "Qualified" is shown on a declaration, the Returning Officer must allow the vote of the elector named in the declaration form unless the Returning Officer is required to disallow the vote in accordance with subclause (4), (5), or (6).
- (4) If a declaration referred to in subclause (2) or (3) does not indicate the ground or grounds on which a special vote is claimed, the Returning Officer must disallow the vote of the elector named in the declaration form, unless—
- (a) the elector's name does not appear on the main roll or any supplementary roll for the district or has been wrongly deleted from any such roll; or
 - (b) the official mark of the Issuing Officer witnessing the declaration and the date shown on the declaration indicate that the declaration was made on polling day outside the electoral district.
- (5) If a declaration referred to in subclause (2) or (3) is not signed by the elector named in the declaration form, the Returning Officer must disallow the vote of the elector.
- (6) If the declaration referred to in subclause (2) or (3) is required to be witnessed but the declaration form has not been signed by a person who is qualified to witness a declaration, the Returning Officer must disallow the vote unless satisfied that the declaration was made in the presence of a qualified witness.
- (7) If the Returning Officer disallows a vote under this clause, the Returning Officer must endorse on the envelope and on the declaration form the words "Disallowed, not qualified", or on the declaration the words "Disallowed, declaration not in order".
- (8) The Returning Officer must not disallow the vote of an elector on the ground that the elector has failed to show their date of birth or former names in a declaration (being a declaration of the kind referred to in subclause (3)).

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 31 July 2020, amend the Electoral Regulations 1996 (the **principal regulations**).

To support the anticipated increase in the number of persons voting at this year's general election as special voters due to the effects of COVID-19, and make the process easier for these voters, these regulations make changes to the requirements in the principal regulations.

The changes are to regulations 20, 25, 26, 27, and 37 of the principal regulations. Those provisions are temporarily suspended and replaced with new provisions that—

- allow an application for a special vote to be made in any manner approved by the Electoral Commission (for example, by telephone):
- remove for special voters in New Zealand who are not in a managed facility the requirement to have their declaration witnessed if they satisfy the Electoral Commission that in their circumstances it is an unreasonable requirement:
- remove the ability of candidates to nominate persons who may witness special vote declarations:
- provide that a special vote returned by post in an envelope that is not post-marked or date-stamped is valid if it is received by a Returning Officer or an Issuing Officer on or before polling day.

The new provisions apply only during the period 31 July 2020 to 16 October 2020. They are revoked on 16 October 2020, after the return of the writ for the general election, although they will continue to apply for the purpose of determining any petition or recount relating to the general election or referendums to be held on 19 September 2020.

These regulations are revoked on 16 October 2021.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 30 July 2020.

Reprints notes

1 *General*

This is a reprint of the Electoral Amendment Regulations (No 2) 2020 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Electoral Amendment Regulations (No 2) 2020 (LI 2020/166): regulation 6