



**Electoral Amendment Bill 2025**

**Submissions on behalf of**

**The Law Association of New Zealand**

**by the**

**Public and Administrative Law Committee**

## **INTRODUCTION**

The Law Association of New Zealand (TLANZ) is an independent membership organisation for the New Zealand legal profession with more than 8,000 members. TLANZ maintains expert law committees that support legal review and policy advocacy on important issues. We appreciate the opportunity to submit our comments on the Electoral Amendment Bill 2025 (“Bill”).

These submissions are made on behalf of the Public and Administrative Law Committee (“Committee”) of TLANZ. The Committee is comprised of barristers and solicitors with broad-ranging experience.

## **EXECUTIVE SUMMARY**

The Bill proposes wide-ranging amendments to New Zealand’s electoral framework ahead of the 2026 general election. Many of the modernising provisions are sensible and welcome. However, two proposals strike at the heart of New Zealand’s democratic system:

- the removal of same-day enrolment and voting, replaced by a 13-day close of registration; and
- the reinstatement of a blanket ban on prisoner voting.

Both measures impose unjustifiable limits on the fundamental right to vote affirmed by s 12 of the New Zealand Bill of Rights Act 1990 (NZBORA) and protected under international law. Each risks disenfranchising significant groups of voters in ways that are arbitrary, inequitable, and corrosive of democratic legitimacy.

The Committee strongly opposes these proposals and urges their reconsideration.

## **SUBMISSIONS**

### **1. Ending same-day enrolment and voting**

- 1.1. The Bill proposes to abolish same-day enrolment and voting by requiring electors to register no later than 13 days before polling day. This represents a radical departure from the expectation established since 1993 that citizens may enrol up to and including election day. It is foreseeable that many electors will be caught unawares, given this long-standing practice, and thereby denied the opportunity to vote. The disenfranchising effect will be immediate and significant.
- 1.2. The right to vote in genuine periodic elections is a cornerstone of New Zealand’s constitutional order. Section 12 of the New Zealand Bill of Rights Act 1990 (NZBORA) affirms this right for every citizen over 18 years of age, and Article 25 of the International Covenant on Civil and Political Rights imposes the same guarantee at international law. This right cannot be set aside for reasons of administrative convenience. Nor can the desire for a speedier count on election night justify undermining the democratic participation that is the lifeblood of electoral legitimacy.
- 1.3. The Attorney-General has concluded, in her report under s 7 of the NZBORA, that the proposed 13-day registration cut-off constitutes an unjustified limit on the right to vote. She identifies that the disenfranchising effect is not insubstantial, and points to less rights-restrictive

alternatives, such as the pre-2020 deadline of the day before polling day, or a cut-off three to five days prior. These alternatives balance administrative needs with the imperative of maximising participation.

- 1.4. The Committee strongly supports the Attorney-General's analysis. The criticisms of the 13-day deadline are not merely arguable but compelling. The proposal is constitutionally unsound, unnecessary, and certain to harm democratic participation. The burden will fall most heavily on young people, Māori, transient populations, and other groups already disproportionately under-represented on the roll. The question is not whether harm will result, but how grave it will be: whether it will diminish New Zealand's international standing, suppress participation by thousands, and cast doubt over the legitimacy of the next Parliament.
- 1.5. These consequences are profound. They demand reconsideration of the proposal in its entirety. If the objective is to ensure efficient election administration, this can and must be achieved without sacrificing the fundamental right of citizens to participate in choosing their representatives.

## **2. Reinstating a prisoner voting ban**

- 2.1. The Bill proposes to disqualify from registration, and therefore from voting, every person detained in prison under a sentence of imprisonment. This amounts to a blanket prohibition on prisoner voting, reversing the 2020 reform that allowed voting for those serving sentences of less than three years.
- 2.2. The Attorney-General has advised that this proposal is inconsistent with s12 of the NZBORA, which guarantees the right to vote. While that right may be limited under s 5 of the NZBORA, such limitations must be demonstrably justified in a free and democratic society. A blanket disenfranchisement of all prisoners fails that test.
- 2.3. The Attorney-General notes that the right to vote is not absolute. It may be subject to reasonable, proportionate limitations. But it cannot be subject to unreasonable limitations that bear no rational connection to the objectives pursued. The present proposal lacks that rational connection.
- 2.4. This is not a new concern. In 2010, when a similar ban was introduced, the then Attorney-General concluded justification could not be established. The High Court in *Taylor v Attorney-General* [2015] NZHC 1706 reinforced this, describing the ban as arbitrary and unjustified. That aspect of the judgment was not challenged on appeal. Parliament has therefore been squarely warned, more than once, that this measure is inconsistent with fundamental rights.
- 2.5. The arbitrariness of the proposal is stark. The Cabinet Paper argues that disenfranchisement reflects breach of civic responsibility. But under the Bill, whether a person may vote will depend on chance factors, not on the seriousness of offending:
  - a person imprisoned for a one-month sentence that happens to overlap with polling day will lose the vote,
  - whereas a person convicted of premeditated murder, but released shortly before the election, may vote,

- and another person serving a two-year sentence between elections will never be deprived of the franchise at all.

2.6. Other examples highlight the irrationality. Those convicted but awaiting sentence may remain entitled to vote, while those sentenced immediately before the election will not. Those granted home detention — typically for logistical reasons such as availability of a suitable address — will retain the right to vote, while those without such an address, serving prison time for the same offence, will not.

2.7. The Attorney-General also identifies a further inconsistency under s 25(g) of the NZBORA. That section guarantees that those convicted of an offence between its commission and sentencing are entitled to the benefit of the lesser penalty. The proposed disenfranchisement would operate as a penalty, and thus risk infringing s 25(g) if it applies to those convicted before, but sentenced after, enactment of the Bill.

2.8. Two legislative paths could be taken to address this timing inconsistency:

- First, the Bill could amend the definition of “penalty” to expressly exclude disenfranchisement from its scope.
- Alternatively, the Bill could be amended to ensure that the blanket ban does not apply to those convicted but not yet sentenced at the time the legislation comes into force.

2.9. The Committee submits that neither technical fix resolves the deeper constitutional problem. A blanket prohibition on prisoner voting remains arbitrary, disproportionate, and inconsistent with both domestic and international obligations. The principled solution is clear: the proposal should be abandoned in its entirety.

### **3. Modernising changes**

3.1. The Bill includes several modernising reforms, such as ceasing to collect honorifics and occupations, allowing the Electoral Commission to update addresses, and permitting electronic rather than postal notification.

3.2. These changes are generally sensible and supported. However, we caution that automatic updating of addresses and reliance on electronic communication must be accompanied by robust privacy safeguards and alternative channels to avoid disadvantaging electors without digital access.

### **4. Advance polling**

4.1. The Bill extends advance voting to a 12-day period and allows flexibility where disruption occurs. These measures appear pragmatic and are supported, provided consultation requirements are rigorously observed.

### **5. Electoral offences**

5.1. The Bill proposes a suite of amendments to electoral offences, alongside the creation of new offences. The stated rationale is to protect electoral integrity and ensure confidence in the electoral system. The Committee accepts the importance of that objective.

- 5.2. The Committee takes a broadly neutral stance on most of these reforms. However, we emphasise two areas of concern where the proposed changes are either unnecessary or overreaching.
- 5.3. First, the Bill creates a new offence prohibiting the provision of free food, drink (other than water), or entertainment in controlled areas around polling places during the voting period. The justification appears to be protecting voters from undue influence. Yet this conduct is already captured under the existing offence of treating. The duplication risks unnecessary complexity in the law, and its necessity has not been demonstrated.
- 5.4. Second, and more seriously, the Bill proposes amendments to the bribery offence in clause 43 by extending it to cover “any benefit.” This phrasing is far too broad in the electoral context. It introduces uncertainty about what conduct might be captured and risks criminalising legitimate electoral activity or ordinary political expression.
- 5.5. The Attorney-General has warned that this expansion could create a real risk of chilling protected democratic participation. The Committee agrees. The breadth of the phrase “any benefit” is such that it could be applied to innocuous acts — for example, a candidate offering a small token of appreciation to campaign volunteers, or community groups providing hospitality at election-related events.
- 5.6. Such overreach would undermine s 14 of the NZBORA, which guarantees freedom of expression, including political expression at the heart of democratic life. A provision that risks suppressing legitimate speech and activity in the name of electoral integrity is not proportionate to the mischief it seeks to address.
- 5.7. The Committee therefore submits that the proposed offence of providing food, drink, or entertainment should be reconsidered, and the amendments introducing the wording “any benefit” should not proceed. Targeted, precise drafting — not broad, catch-all prohibitions — is the correct way to maintain electoral integrity while respecting constitutional rights.

## **CONCLUSION**

The Bill contains many other amendments and reforms not covered above. Some of those modernising measures are sensible and welcome. However, the Bill will inevitably be defined by two highly controversial provisions: the removal of same-day enrolment and the imposition of a 13-day close of registration period, and the reinstatement of a blanket prohibition on prisoner voting.

The proposal to abolish same-day enrolment strikes at the core of New Zealand’s democratic legitimacy. For more than three decades, New Zealanders have held a settled expectation that they may enrol up until, or on, polling day. Removing that right, without compelling justification, will disenfranchise many thousands of citizens — disproportionately young people, Māori, and others who are already under-represented. It risks diminishing New Zealand’s international standing, suppressing participation in future elections, and undermining public confidence in the legitimacy of the next Parliament.

The reintroduction of a blanket ban on prisoner voting, while perhaps less sweeping in its numerical effect, is no less concerning. Parliament has been warned repeatedly — in 2010, in 2015, and again now — that such a ban is inconsistent with the NZBORA. It disenfranchises on arbitrary grounds unrelated to the seriousness of offending, produces irrational distinctions between similarly-situated

offenders, and undermines the principle of equal citizenship. The fact that this issue continues to re-emerge as a political football only underlines the need for principled, rights-consistent reform.

Both provisions reflect an alarming trend: fundamental democratic rights are being compromised for reasons of administrative convenience or political expediency. The Committee submits that this is constitutionally unsound. Nobody should be disenfranchised in the arbitrary and disproportionate manner that this Bill contemplates. The right to vote in general elections is the bedrock of representative democracy. It should never be sacrificed to efficiency, symbolism, or political rhetoric.

These submissions have been necessarily technical, but the principle is simple: Parliament should not pass legislation that excludes citizens from the franchise without the clearest and most compelling justification. That justification has not been made out here.

The Committee thanks the Government Administration Committee for the opportunity to make submissions on the Electoral Amendment Bill 2025. We remain available to address any matters requiring clarification and to provide further assistance as the Committee considers this important Bill. We are available to discuss our submissions, if required. Should clarification be required with regards to any matters raised, please contact Gandhya Senanayake, the TLANZ Committee Executive at [gandhya.senanayake@tlanz.nz](mailto:gandhya.senanayake@tlanz.nz).

## **ACKNOWLEDGMENTS**

The Committee acknowledges the contributions to the submissions by the following member: Geoff Beresford

Yours sincerely,

A handwritten signature in black ink that reads "Samira Taghavi". The signature is written in a cursive, flowing style.

Samira Taghavi, Barrister  
Convenor, TLANZ Public and Administrative Law Committee

*The views represented in this submission are not necessarily representative of the views of all TLANZ members but are those of individual TLANZ members or TLANZ committees who have responded to the consultation.*