

**From:** [Kristina Temel](#)  
**To:** [Dean](#) [REDACTED] [Natalie](#) [REDACTED] [Benjamin](#) [REDACTED] [Zara](#) [REDACTED] [Ella](#) [REDACTED] [Tim](#) [REDACTED] [Campbell](#) [REDACTED]  
**Subject:** FW: Prisoner voting media stories  
**Date:** Wednesday, 30 April 2025 8:14:00 am

---

FYI Clare may want to run some content by us today on this.

KT

---

**From:** Kristina Temel  
**Sent:** Wednesday, 30 April 2025 8:09 am  
**To:** Karl Le Quesne <[REDACTED]@elections.govt.nz>; Clare [REDACTED] <[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler <[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** RE: Prisoner voting media stories

Cabinet papers haven't been proactively released, but the Minister has put out this press release this morning.

[Government to reinstate prisoner voting ban | Beehive.govt.nz](#)

---

**From:** Karl Le Quesne <[REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 8:00 am  
**To:** Clare [REDACTED] <[REDACTED]@elections.govt.nz>; Kristina Temel <[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler <[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** RE: Prisoner voting media stories

Thanks Claire

It might be difficult to prepare an email for staff when we don't formally know the decision, and the source of this appears unclear.

But let's prepare something and we can review when and if we send it.

Karl Le Quesne

---

**From:** Clare [REDACTED] <[REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 7:48 am  
**To:** Karl Le Quesne <[REDACTED]@elections.govt.nz>; Kristina Temel <[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler <[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** Prisoner voting media stories

Mōrena

Newsroom and RNZ have stories this morning on the Government's plan to revoke voting rights for prisoners serving a sentence of less than three years - links below. Karl, would you like Jessie and me to prepare an email to staff on this?

Newsroom <https://newsroom.co.nz/2025/04/30/government-to-reinstate-full-prisoner-voting-ban/>

RNZ <https://www.rnz.co.nz/news/political/559446/prisoner-voting-ban-to-be-brought-back-paul-goldsmith>

Clare

Get [Outlook for iOS](#)

**From:** [Kristina Temel](#)  
**To:** [Clare](#) [REDACTED], [Karl Le Quesne](#); [Suzanne Knight-Tinirau](#); [Martin Rodgers](#); [Anusha Guler](#); [Jessie](#) [REDACTED]  
**Subject:** RE: Prisoner voting media stories  
**Date:** Wednesday, 30 April 2025 12:13:00 pm

---

Might just be good to confirm that it is prospective so we will still have to go to prisons.

Kristina

---

**From:** Clare [REDACTED] <[REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 9:57 am  
**To:** Karl Le Quesne <[REDACTED]@elections.govt.nz>; Kristina Temel <[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler <[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** RE: Prisoner voting media stories

Kia ora koutou

I've prepared a draft email that could be sent today, or if you'd rather Karl, incorporated into tomorrow's email. The story is high up in news bulletins today, so our people will be hearing it on the news. You can listen to [Paul Goldsmith on RNZ here](#) – note, he did confuse us with the Independent Electoral Review and the quote is included in the story.

Clare

#### **Draft email**

Subject line: Prisoner voting

Kia ora koutou

As you may have heard in the news today, the Government has announced that it intends to reinstate a ban on prisoner voting.

Currently prisoners serving a sentence of less than three years are able to vote, and the ban would reverse that **for people sentenced after the change**. Prisoners on remand would still be eligible to vote.

The Justice Minister's [media release is available to read here](#). The proposed change will be part of an electoral amendment bill to be introduced later this year.

We will follow developments and factor any changes into our planning for the next election, and continue to work with the Department of Corrections to deliver services to prisoners who are eligible to vote under the law.

---

**From:** Karl Le Quesne <[REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 8:18 am  
**To:** Kristina Temel <[REDACTED]@elections.govt.nz>; Clare [REDACTED]  
<[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]  
[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler  
<[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** RE: Prisoner voting media stories

Thanks Kristina

We can you use the PR as a starting point for a message to staff.

I wonder if we include it in my regular email due out tomorrow, rather than a separate one?

Karl Le Quesne

---

**From:** Kristina Temel <[REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 8:09 am  
**To:** Karl Le Quesne <[REDACTED]@elections.govt.nz>; Clare [REDACTED]  
<[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]  
[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler  
<[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** RE: Prisoner voting media stories

Cabinet papers haven't been proactively released, but the Minister has put out this press release this morning.

[Government to reinstate prisoner voting ban | Beehive.govt.nz](https://www.beehive.govt.nz/news/government-to-reinstate-prisoner-voting-ban)

---

**From:** Karl Le Quesne <[REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 8:00 am  
**To:** Clare [REDACTED] <[REDACTED]@elections.govt.nz>; Kristina Temel  
<[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]  
[REDACTED]@elections.govt.nz>; Martin Rodgers <[REDACTED]@elections.govt.nz>; Anusha Guler  
<[REDACTED]@elections.govt.nz>; Jessie [REDACTED] <[REDACTED]@elections.govt.nz>  
**Subject:** RE: Prisoner voting media stories

Thanks Claire

It might be difficult to prepare an email for staff when we don't formally know the decision, and the source of this appears unclear.

But let's prepare something and we can review when and if we send it.

Karl Le Quesne

---

**From:** Clare [REDACTED] [REDACTED]@elections.govt.nz>  
**Sent:** Wednesday, 30 April 2025 7:48 am  
**To:** Karl Le Quesne <[REDACTED]@elections.govt.nz>; Kristina Temel  
<[REDACTED]@elections.govt.nz>; Suzanne Knight-Tinirau <[REDACTED]  
[REDACTED]@elections.govt.nz>; Martin Rodgers [REDACTED]@elections.govt.nz>; Anusha Guler  
<[REDACTED]@elections.govt.nz>; Jessie [REDACTED] [REDACTED]@elections.govt.nz>  
**Subject:** Prisoner voting media stories

Mōrena

Newsroom and RNZ have stories this morning on the Government's plan to revoke voting rights for prisoners serving a sentence of less than three years - links below.  
Karl, would you like Jessie and me to prepare an email to staff on this?

Newsroom <https://newsroom.co.nz/2025/04/30/government-to-reinstate-full-prisoner-voting-ban/>

RNZ <https://www.rnz.co.nz/news/political/559446/prisoner-voting-ban-to-be-brought-back-paul-goldsmith>

Clare

Get [Outlook for iOS](#)

**From:** [Kristina Temel](#)  
**To:** [Lucy Hickman](#)  
**Subject:** Getting your approval to go back to MOJ re prisoner voting proposal  
**Date:** Wednesday, 26 March 2025 11:54:00 am  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[Briefing - Additional electoral reforms - updated and draft Cabinet papers - signed by Min.pdf](#)  
[Paper 4- Cabinet paper - Disqualification of sentenced prisoners - For Min Consult \(25-03\).docx](#)

---

Kia ora Lucy,

Just looping you in as Acting CEO. **Are you comfortable that I go back to the Ministry as follows?**

Kia ora Hayley,

Here is some information re the operational implications for the Electoral Commission.

Prisoners will be eligible to vote within the electorate where they last resided for one month or more if they are:

- Being held on remand
- Serving a sentence on home detention or probation
- Have a sentence of imprisonment of less than 3 years and were sentenced prior to the commencement of the amendments removing the right to vote for sentenced prisoners.

We will also continue to be required to provide services for people in police cells.

We will need to update the guidance for our advance voting teams for prisons.

We will need to update prison voting collateral and information for Corrections.

These resources are being prepared anew for the election so there are no significant cost implications.

The changes will apply to persons sentenced from commencement, including for the 2026 general election and any by-elections arising from commencement.

We will need to update guidance for candidates re eligibility including handbooks, nomination forms and resources in the candidate hub. We will need to update guidance on our websites re eligibility to enrol and vote. Does not affect candidate video content so no cost implications.

There will be process changes for Corrections including the prisons operations manual particularly around receipt of prisoners into prison. They are currently required to provide information to the Commission within 7 days on those that are not eligible and need to be removed from the roll as well as provide information to prisoners being received that are eligible on enrolling and forwarding the applications. The former will increase as a proportion, the latter will cease. Under the proposal Corrections will retain the responsibility for facilitating enrolment upon release and this will also need to increase.

If the Bill is enacted, all new prisoners would meet the disqualification criteria. This will require more people to be looked up and removed from the rolls. The Commission will also have to re-enrol more prisoners after their sentence ends. We anticipate that while this will increase the volume of transactions we have to process, it will be manageable within current resources.

Eligibility re prisoners is not discussed on the enrolment form as removals are dealt with through the Corrections notification provisions in section 81 of the Electoral Act - so no changes to enrolment forms or the enrol online system are required.

The enrolment system does not record prisoner status, so there are no changes required in the enrolment system.

Following the introduction of the 2010 amendments an issue arose related to a category of prisoners who were:

- sentenced before 16 December 2010

- but who were out of prison at that time and therefore entitled to vote when the law took effect (assuming they met the other qualifications: NZ citizen or permanent resident, at least 18 etc.), and
- were then recalled to prison to continue serving their sentences<sup>1</sup>.

Unless there is some other reason that these people were disqualified to vote as at 15 December 2010 or if they have now been sentenced for a new offence after 16 December 2010, it was argued that they are entitled to vote, even though, if the law had never changed, they would have been disqualified from voting. As at April 2013, this was alleged to affect up to 37 prisoners serving life sentences (31) and preventive detention (6), and a further 160 who were back in prison having been recalled for finite sentences. Can we ensure that this scenario is clearly dealt with in the legislation? This might be something to also discuss with Corrections.

Ngā mihi

Kristina

**Kristina Temel** | Manager, Legal Regulation and Policy | **Electoral Commission** | Te Kaitiaki Take Kōwhiri

PO Box 3220 | Level 10, 34 – 42 Manners Street | Wellington | 6140

Phone + [REDACTED] | [vote.nz](http://vote.nz) | [elections.nz](http://elections.nz)



[REDACTED]

**EXTERNAL EMAIL WARNING:** Do not open any **attachments** or **links** until you are certain they are safe. Beware of **phishing** attacks, check the sender address. Always report emails you are not certain are safe.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Hon Paul Goldsmith**  
Minister of Justice

**Proactive release – Prisoner Voting**

Date of issue: 30 April 2025

The following documents have been proactively released in accordance with Cabinet Office Circular CO (23) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	<b>Additional electoral reforms: updated and draft Cabinet papers</b> Briefing Ministry of Justice 24 March 2025	Some information has been withheld in accordance the following sections of the OIA: <ul style="list-style-type: none"><li>• section 9(2)(a) to protect the privacy of natural persons, and</li><li>• section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials.</li></ul>
2	<b>Paper 4: Electoral Matters Bill – Further Policy Approvals</b> Cabinet Paper Hon Paul Goldsmith, Minister of Justice 14 April 2025	Some information has been withheld in accordance with the following sections of the OIA: <ul style="list-style-type: none"><li>• section 9(2)(a) to protect the privacy of natural persons, and</li><li>• section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials.</li></ul>
3	<b>Appendix 1: History of prisoner voting in New Zealand (1956-2023)</b> Appendix to Cabinet Paper Hon Paul Goldsmith, Minister of Justice 14 April 2025	Released in full.
4	<b>Appendix 2: Sentenced prisoners by offence seriousness, sentence length and ethnicity</b> Appendix to Cabinet Paper Hon Paul Goldsmith, Minister of Justice 14 April 2025	Released in full.
5	<b>CAB-25-MIN-0122</b> Cabinet Minute Cabinet Office 14 April 2025	Some information has been withheld in accordance with section (2)(f)(iv) of the OIA to protect the confidentiality of advice tendered by Ministers of the Crown and officials.



No.	Document	Comments
6	<b>Aide memoire: Paper 4: Electoral Matters Bill – Policy approvals (disqualification of sentenced prisoners from voting)</b> Aide memoire Ministry of Justice 14 April 2025	Some information has been withheld in accordance with section (2)(f)(iv) of the OIA to protect the confidentiality of advice tendered by Ministers of the Crown and officials.

## Tāhū o te Ture

### ***Additional electoral reforms: updated and draft Cabinet papers***

Date \_\_\_\_\_

File reference

EMB-2025-03-24

## Timeframe

**Indicate** your final decisions on additional electoral policy proposals to be included in the upcoming Electoral Matters Bill (or other legislative vehicle).

By midday on Wednesday 26 March 2025, so we can finalise the Cabinet papers for lodging on Thursday 27 March

Name	Position	Telephone (work) (a/h)	First contact
Kathy Brightwell	General Manager, Civil and Constitutional	S9(2)(a)	<input type="checkbox"/>
Hayley Denoual	Policy Manager, Democracy and Open Government		<input checked="" type="checkbox"/>

☐ Noted      ☐ Approved      ☐ Overtaken by events  
☐ Referred to: \_\_\_\_\_  
☐ Seen      ☐ Withdrawn      ☐ Not seen by Minister

## Purpose

---

1. This briefing:
  - 1.1. S9(2)(f)(iv)
  - 1.2. provides a new draft Cabinet paper (*Paper 4: Disqualification of sentenced prisoners from voting*) which seeks Cabinet approval to introduce a ban on prisoner voting, and sets out the Ministry's view on this proposal.
2. Both papers are currently scheduled for lodging on Thursday 27 March, and for consideration by the Cabinet Social Outcomes Committee on Wednesday 2 April. We are seeking your urgent feedback on both papers, and approval to inform key agencies (such as the Electoral Commission and the Department of Corrections) about the new proposals in Paper 4, prior to lodging.

S9(2)(f)(iv)

---

S9(2)(f)(iv)

#### **Paper 4: Disqualification of sentenced prisoners from voting**

---

22. Following direction from your Office on Friday 21 March, we have attached a further Cabinet paper (Cabinet Paper 4), which seeks approval to disqualify all sentenced prisoners from enrolling, remaining enrolled and voting.
23. The paper notes that a full ban on prisoner voting is likely to attract a section 7 report for being inconsistent with section 12 of the New Zealand Bill of Rights Act 1990 (BORA), and possibly section 19(1), and not justified under section 5.
24. The draft paper also proposes that the existing processes between Corrections and the Electoral Commission, which aim to support prisoners to enrol, or re-enrol upon their release, should continue. This is in keeping with the Commission's broader activities to improve enrolment processes and keep the electoral roll up to date.

### Treatment of existing prisoners serving a sentence of 3-years or less

25. We are seeking your direction on whether the ban should apply to prisoners who are serving a sentence of imprisonment of 3 years or less at the time the bill commences. This would effectively require all prisoners to be removed from the electoral roll upon commencement, meaning none of them would be able to vote at the next general election. We note this may be considered to be retrospective legislation because prisoners who are serving a sentence of imprisonment of 3 years or less had the right to vote at the time of sentencing. We note that guidance from the Legislation Design and Advisory Committee states that the starting point is that legislation should have prospective, not retrospective effect, and any direct retrospective effect must be clearly stated in the legislation and be capable of justification.
26. The alternative approach, which was taken by the 2010 Act, is to provide that the ban applies only to prisoners sentenced after commencement. Existing prisoners serving a sentence of under 3 years or less would not be disqualified for registration on the grounds of their existing sentence of imprisonment. Prisoners who would have been disqualified under the 2020 Act would remain so (*officials preferred option*).

### Persons committed to a hospital or secure facility upon conviction

27. In some cases, a person who has committed a crime may not be in prison on mental health grounds or due to an intellectual disability. This situation may occur if a person has been found unfit to stand trial, acquitted on the legal grounds of insanity, committed to a hospital or secure facility upon conviction, or is in prison and requires compulsory care or treatment.<sup>2</sup>
28. The Act currently provides that in these situations, a person only loses the right to vote if they are detained in a hospital or secure facility for more than three years. This disqualification essentially provides for consistent treatment with other offenders.
29. These provisions apply to a very small number of people, but there are a number of complicating factors around how they may interact with the proposed ban on prisoner voting. For example, people detained in a hospital or secure facility may not have been 'convicted', and so they are not always classified as 'imprisoned'. In the time available we have not been able to consult with the necessary experts in Corrections and Health to confirm what amendments, if any, may be appropriate to these provisions.
30. The attached draft Cabinet paper therefore notes that you have asked for further advice on this and seeks delegated authority for you to make any subsequent policy decisions (subject to confirmation by Cabinet before the Bill is introduced).

### **Ministry advice on the proposed prisoner voting ban**

31. The Ministry does not support the proposed ban on prisoner voting. The Ministry's advice with regard to prisoner voting rights was canvassed in our Regulatory Impact Statement: Prisoner voting, dated 8 November 2019.<sup>3</sup> This RIS was prepared to accompany Cabinet

---

<sup>2</sup> This generally applies to people detained in a hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992 or in a secure facility under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

<sup>3</sup> The RIS can be found here: [Prisoner Voting - 25 February 2020 - Regulatory Impact Assessment - Ministry of Justice](#)

decisions on what became the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020. Our views have not changed since this RIS was prepared.

32. In addition, we are also concerned about the fact of, and the process by which, voter eligibility rules are being continually amended, which risks undermining voter trust and respect for our core democratic values.
33. The Ministry has included a comment to the above effect in the attached draft Cabinet paper (paragraphs 63-66).

*Allowing prisoners to vote is the most human rights/NZBORA consistent approach*

34. The Ministry's view is that allowing all prisoners to enrol, vote, and (if Māori) participate in the Māori electoral option is the only approach that removes the significant human rights and Treaty of Waitangi issues of a prisoner voting ban (whether partial or full). The right to vote should not be regarded as a privilege, and allowing prisoners to exercise their democratic rights freely is the most consistent with NZBORA, our international human rights obligations and the Crown's Treaty obligations.
35. The ban is inconsistent with the right to vote affirmed in section 12 of NZBORA. In 2010, the then Attorney-General, Hon Christopher Finlayson, brought the Electoral (Disqualification of Sentenced Prisoners) Amendment Bill to the attention of the House under section 7 of NZBORA. He did so on the basis that the Bill was inconsistent with section 12.
36. The Ministry notes Judge Savage's comment in his forward to the Waitangi Tribunal's *He Aha i Pērā Ai? The Māori Prisoners' Voting Report*<sup>4</sup> that the Tribunal could see no utility whatever in any restriction on prisoner voting. The Ministry concurs and believes that the rationales that are put forward – such as punishment, deterrence, or breach of social contract – are inadequate and unproven.
37. Removing the right to vote is an additional punishment on top of incarceration, rather than incidental to it, yet there is no evidence that suggests disqualifying sentenced prisoners from voting deters people from committing crimes, or helps victims feel safer. Imprisonment is the punishment, and there is no merit in also remove electoral rights. We consider that removing the ban on prisoner voting entirely is most consistent with the criminal justice system's focus on rehabilitation.

*The disqualification goes against New Zealand's international human rights obligations, and is out of step with international trends*

38. The right to vote is recognised by Article 25 of the International Covenant on Civil and Political Rights (ICCPR). The United Nations Human Rights Committee (the UNHRC) considers blanket prisoner voting bans as inconsistent with the ICCPR and as serving no rehabilitative purpose. In this context, the UNHRC frequently comments unfavourably on prisoner voting bans and has tried to limit the reach of such laws it has reviewed. It has specifically noted the "significant racial implications" of prisoner voting prohibitions, given the disproportionate representation of ethnic minorities in most prison populations.

---

<sup>4</sup> [He Aha i Pērā Ai? The Māori Prisoners' Voting Report](#)

39. In November 2023, the UNHRC communicated its View to New Zealand that the 2010 Act breached Article 25(b) of the ICCPR, which relates to the right to vote.<sup>5</sup> The Committee's View was issued in response to a case brought on behalf of Arthur Taylor, Sandra Ngaronoa, and Sandra Wilde. A Government Response to the UNHRC was provided in April 2024. It noted that the 2010 Act was no longer in force. The Response further noted that the Government considered the current 3-year disqualification justified as it enhanced the criminal sanction for serious offending and enhanced civil responsibility and respect for the rule of law for those convicted of serious criminal offending.<sup>6</sup>
40. In line with international human rights jurisprudence, there has been a trend towards easing restrictions on prisoner voting internationally. In Europe, most countries have no or partial prohibitions on prisoner voting; only the United Kingdom still retains a complete prohibition (except for prisoners released in licence). There is a partial prohibition on prisoner voting in Australia (three years); and no prohibition in Canada. The situation varies depending on the State in the United States.
41. Introducing a ban on prisoner voting will place New Zealand at odds with the trends in most other liberal democracies with which we usually compare ourselves. If full prisoner voting rights are not restored, the Ministry would suggest retaining the current status quo of disqualifying only prisoners serving longer terms of imprisonment, which is at least closer to the position taken in many other comparator countries.

*The disqualification amounts to discrimination and is inconsistent with the Crown's Treaty obligations*

42. The Waitangi Tribunal found that, during the previous ban on prisoner voting, the Crown failed to actively protect Māori rights.<sup>7</sup>
43. The Ministry considers that the data presented at the Waitangi Tribunal inquiry on the impact of the disqualification support the view that a prisoner voting ban is discriminatory against Māori. Drawing on Crown evidence, the Tribunal found that in 2018 Māori were 11.4 times more likely to be removed from the electoral roll because of a prison sentence than non-Māori, compared to in 2010 before the complete disqualification where Māori were 2.1 times more likely to be removed from the electoral roll because of a prison sentence. This indicates that Māori are being sentenced to a period of imprisonment of less than three years at a significantly higher rate than non-Māori.
44. This means disqualification of prisoners could also be inconsistent with section 19 of NZBORA. Section 19 affirms the right to be free from discrimination on the basis of race, national or ethnic origin.
45. A ban on prisoner voting is also likely to be inconsistent with New Zealand's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination due to its disproportionate effect on Māori. Article 5(c) states that parties are to prohibit and eliminate racial discrimination and to guarantee political rights, especially electoral rights. It may also

---

<sup>5</sup> New Zealand ratified the ICCPR in 1978, and went on to ratify the Optional Protocol in 1989 which provided for the Committee to receive communications ('complaints') from individuals who claim that New Zealand has breached their rights under the ICCPR.

<sup>6</sup> <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/human-rights/international-human-rights/international-covenant-on-civil-and-political-rights/>

<sup>7</sup> He Aha I Pērā Ai? The Māori Prisoners' Voting Report. Above N4, at pp 32-33.



be inconsistent with the Declaration on the Rights on Indigenous Peoples. The Declaration states that Indigenous peoples have the right to maintain and strengthen their distinct political institutions, while retaining their right to participate fully in the political life of the State.

46. We note that you are considering attending New Zealand's upcoming examination before the Committee on the Elimination of all forms of Racial Discrimination in August 2025. If the Bill has been introduced by that date, it is likely the Committee will question the delegation about the proposed ban.
47. The Ministry considers that, in light of the disproportionate impact the disqualification has had on Māori both before and after 2010, removing any form of prisoner disqualification would also be most consistent with the object of ensuring our electoral laws are, and are perceived to be, fair.

*The Ministry is concerned about the continual cycle of changes to voter eligibility rules*

48. The Ministry's comment in the draft Cabinet paper also notes our concern that the continual cycle of partisan changes, or proposals to change, the voter eligibility rules, may ultimately undermine voter trust in, and respect for, our core democratic values. We note, for example, that if the proposed ban proceeds, the prisoner voting rules will have changed four times over seven electoral cycles. Similarly, in recent years changes to the voting age were rapidly proposed without prior cross-party consultation and discussion, and subsequently abandoned.
49. We acknowledge that the issue of voter eligibility in any democracy will always raise a range of complex substantive questions and matters of principal. However, we suggest that the consideration of issues pertaining to fundamental democratic rights should be approached in a more collaborative, non-partisan, and consultative way. The increased level of interest and commentary from the judicial and legislative branches of government, on matters pertaining to voter rights, also behoves a more considered and collaborative approach from the executive in response.

S9(2)(f)(iv)

---

50. We understand that your preference is to include the prisoner voting amendments in the upcoming Electoral Matters Bill. S9(2)(f)(iv)

S9(2)(f)(iv)

*An alternative is a standalone Electoral (Disqualification of Sentenced Prisoners) Amendment Bill*

55. S9(2)(f)(iv), an alternative option is to introduce a standalone Electoral (Disqualification of Sentenced Prisoners) Amendment Bill. S9(2)(f)(iv)
56. S9(2)(f)(iv)

58. In the interest of time, the attached draft Cabinet paper provides for both legislative options. We can amend it according to your decisions on this briefing.

### **Next Steps**

---

59. Both papers are currently scheduled for consideration by the Cabinet Social Outcomes Committee next Wednesday 2 April. We are therefore seeking your urgent feedback on both papers, so we can finalise them for lodging this Thursday 27 March.
60. Timeframes for ministerial consultation are tight, but we recommend that you notify the Minister of Corrections and the Minister of Local Government (in respect of local elections) of your prisoner voting proposals ahead of ahead of lodging this Thursday.

---

S9(2)(f)(iv)

61. You may also wish to advise the Electoral Commission Board of your decisions regarding **S9(2)(f)(iv)** , and the prisoner voting ban, at your meeting with them tomorrow (Tuesday 25 March).

*Agency Consultation on Cabinet paper 4 - prisoner voting ban*

62. Due to time constraints, no departmental consultation has been undertaken in preparing draft Cabinet paper 4. We will need to consult closely with the Electoral Commission and the Department of Corrections during the drafting of the prisoner voting ban, and to understand any transitional and implementation arrangements that may need to be put in place.
63. We seek your agreement to inform the Electoral Commission, the Department of Corrections, the Department of Internal Affairs (Local Government), and the Department of the Prime Minister and Cabinet (Policy Advisory Group) before this paper is lodged on Thursday.
64. We will engage with the Ministry for Regulation regarding the Regulatory Impact Statement requirements. As noted in the draft Cabinet paper (paragraph 41) due to timing constraints we have not been able to prepare a Regulatory Impact Statement for submission with the paper, as required under Cabinet Office Circular CO (24) 7: Impact Analysis Requirements.
65. Instead, we propose to prepare a Regulatory Impact Statement for submission along with the Cabinet paper seeking approval to introduce the Bill.

## **Recommendations**

---

66. We recommend that you:

**S9(2)(f)(iv)**

NOTED

*Cabinet Paper 4: Disqualification of sentenced prisoners from voting*

- |      |   |          |
|------|---|----------|
| 3.   | <b>note</b> that the Ministry does not support a prisoner voting ban, and considers that allowing all prisoners to vote is the only approach that is consistent with NZBORA, our international human rights obligations and the Crown's Treaty obligations; | NOTED    |
| 4.   | <b>note</b> that the Ministry has included a departmental comment in the Cabinet paper expressing the Ministry's views on prisoner voting rights;   | NOTED    |
| 5.   | <b>provide feedback</b> on draft Cabinet Paper 4, which seeks Cabinet approval to introduce a ban on prisoner voting;   |          |
| 6.   | <b>indicate</b> whether the ban should apply:   |          |
| 6.1. | retrospectively to existing prisoners who are serving a sentence of imprisonment of 3 years or less at the time the Bill commences; <b>OR</b>   | YES / NO |
| 6.2. | prospectively only to new prisoners sentenced after the Bill commences, similar to the approach taken by the 2010 Act ( <i>official's preferred</i> )   | YES / NO |
| 7.   | <b>indicate</b> your preferred legislative vehicle for progressing the prisoner voting amendments   |          |
| 7.1. | include within the Electoral Matters Bill, S9(2)(f)(iv)<br>; <b>OR</b>  | YES / NO |
| 7.2. | include in a standalone Electoral (Disqualification of Sentenced Prisoners) Amendment Bill, S9(2)(f)(iv)  | YES / NO |

8. **Agree** to officials informing the Electoral Commission, the Department of Corrections, the Department of Internal Affairs (Local Government), and the Department of the Prime Minister and Cabinet (Policy Advisory Group) about the proposed prisoner voting ban before Cabinet Paper 4 is lodged on Thursday. YES / NO

*H Denoual*

---

Hayley Denoual  
**Policy Manager, Democracy and Open Government**

APPROVED      SEEN      NOT AGREED

---

Hon Paul Goldsmith  
**Minister of Justice**

**Date**    /    /

**Attachments:**

- Appendix 1: [S9\(2\)\(f\)\(iv\)](#)
- Appendix 2: Draft Cabinet Paper 4: Disqualification of sentenced prisoners from voting

Office of the Minister of Justice

Cabinet

## Paper 4: Electoral Matters Bill – Further Policy Approvals

### Proposal

- 1 This paper seeks agreement to amend the Electoral Act to disqualify all sentenced prisoners from enrolling, remaining enrolled and voting.
- 2 This paper is part of a suite of four papers relating to electoral reform that includes:

S9(2)(f)(iv)

- Paper 3: Government response to the Justice Committee report *Inquiry into the 2023 General Election*.

### Relation to government priorities

- 3 This paper proposes changes ahead of the 2026 General Election that align with the Government's twin foci of upholding the integrity of the electoral system and strengthening the societal response to crime by placing a greater emphasis on personal responsibility and accountability.

### Executive Summary

- 4 Currently, only prisoners serving a sentence of three years or more are disqualified from voting. This paper seeks agreement to disqualify all sentenced prisoners from enrolling and voting, and consequentially from the ability to stand as a candidate. This reflects the uncomplicated principle that people lose rights when sentenced to prison after committing a crime. The proposed change will establish a consistent approach to prisoner voting, regardless of the length of sentence.
- 5 The right to vote is foundational to any democratic society and should be afforded the highest respect and protection. People are only sentenced to prison in New Zealand for serious, and often multiple, offending. The loss of the right to vote while serving their sentence serves to underline the importance that New Zealanders afford to the rule of law, and the civic responsibility that goes hand-in-hand with the right to participate in our democracy through voting.
- 6 When prisoners have served their time, they will enjoy the full restoration of electoral rights. The proposals in this paper also continue the existing processes between the Department of Corrections (Corrections) and the Electoral Commission which support prisoners to enrol upon their release.
- 7 The current position, under which only prisoners serving a sentence of three years or more are disqualified from voting, was enacted in 2020. It was considered by the

then Attorney-General to be not inconsistent with section 12 of the New Zealand Bill of Rights Act 1990 (BORA) – the right to be vote, nor section 19(1) – the right to be free from discrimination (including on the ground of race).<sup>1</sup>

- 8 However, following the line of reasoning in the 2018 Supreme Court judgment in *Attorney-General v Arthur William Taylor*, and the Waitangi Tribunal's 2019 recommendation in *He Aha i Pērā Ai? The Māori Prisoners' Voting Report*, a full ban on prisoner voting is likely to attract a section 7 report for being inconsistent with section 12, and possibly section 19(1), of BORA, and not justified under section 5 of BORA.
- 9 I propose to include these amendments in the Electoral Matters Bill (the Bill), S9(2)(f)(iv)

### **A ban on prisoner voting underlines the value of the right to vote**

- 10 I propose to reinstate the ban on prisoner voting for anyone convicted and detained in prison under a sentence of imprisonment.<sup>2</sup> This will also mean that prisoners will not be eligible to stand as candidates in elections. This will reintroduce the position introduced by the Electoral (Disqualification of Convicted Prisoners) Amendment Act 2010 ("**the 2010 Act**"), which is discussed further below. It will reverse the changes that were rushed through in the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 ("**the 2020 Act**") so that only prisoners serving sentences of three or more years were prohibited from enrolling to vote. Appendix 1 sets out further detail on the recent changes to prisoner voting in New Zealand.
- 11 I consider the right to vote to be foundational to any democratic society. As such it should be afforded the highest respect and protection. Those who commit a crime and are duly sentenced should expect, as part of the reparations they owe to society, to temporarily lose certain societal rights.
- 12 The loss of the right to vote while serving a sentence of imprisonment underlines the importance that New Zealanders afford to the rule of law, and the civic responsibility that goes hand-in-hand with the right to participate in our democracy. The proposed change will remove the current arbitrary rules, and reinstate a consistent approach to prisoner voting rights, regardless of the length of sentence.
- 13 I propose that the ban on voting will apply only to prisoners sentenced after commencement. Existing prisoners serving a sentence of less than three years would not be disqualified for registration on the grounds of their existing sentence of imprisonment. Prisoners serving a sentence of three years or more, who would have been disqualified under the 2020 Act anyway, would remain so.

---

<sup>1</sup> Electoral (Registration of Sentenced Prisoners) Amendment Bill (22565/5.0): Consistency with New Zealand Bill of Rights Act 1990

<sup>2</sup> For the avoidance of doubt, this will not include prisoners held on remand who have not yet been sentenced.

*Potential inconsistencies with BORA*

- 14 In respect of potential discrimination under section 19(1) of the BORA, I do not consider a ban to be discriminatory in the sense that it will provide a material disadvantage to Māori. I note the Crown Law advice on the 2020 Act which noted the evidence before the Waitangi Tribunal in 2018 that less than one percent of the Māori population were in prison at any one time. That advice went on to note, at paragraph 36, that “*it remains difficult to see how such low numbers could give any material disadvantage to Māori as a whole, if material disadvantage is understood as significant, potential electoral impact*”.<sup>3</sup>

*Persons committed to a hospital or secure facility*

- 15 I have asked officials for further advice on whether those who have committed a crime, but who may not be in prison on mental health grounds or due to an intellectual disability, should also be disqualified from voting to align with those convicted and received into a prison. This situation may occur if a person has been, for example, committed to a hospital or secure facility upon conviction, for compulsory care or treatment. I seek delegated authority to make policy decisions on this matter, subject to confirmation by Cabinet before the Bill is introduced.

**Challenges to the 2010 ban on prisoner voting**

- 16 The 2010 Act was introduced as a members’ bill in the name of Paul Quinn MP. It introduced a full disqualification of any sentenced prisoners being able to register to enrol as an elector and therefore vote. It resulted in the complete removal from the electoral roll of offenders sentenced to imprisonment. Upon release from prison, it was the offender’s responsibility to re-enrol.

*Section 7 BORA report - inconsistency with section 12 (right to vote)*

- 17 The then Attorney-General, the Hon Christopher Finlayson, presented a report to Parliament under section 7 of BORA on the 2010 Act. This noted that, although the right to vote was not necessarily an absolute right, the complete disqualification of all prisoners was inconsistent with the electoral rights affirmed by section 12 of BORA and could not be justified.<sup>4</sup> The report did not discuss any potential inconsistency with section 19(1).
- 18 The Attorney-General concluded that the objective of the Bill (serious offenders forfeiting their right vote) was not rationally linked to the blanket ban on prison voting given that people who are not serious offenders, for example fine defaulters, would also be disenfranchised.

*Declaration of inconsistency upheld by the Supreme Court*

- 19 In 2013, then-prisoner Arthur Taylor commenced court proceedings, along with four others, and sought a formal declaration that the prohibition was inconsistent with the right to vote in BORA. The Court agreed, and a declaration of inconsistency was

---

<sup>3</sup> See footnote 1 above.

<sup>4</sup> <https://www.justice.govt.nz/assets/Documents/Publications/BORA-Electoral-Disqualification-of-Convicted-Prisoners-Amendment-Bill-v2.pdf>



issued by the High Court in 2015, and upheld by the Court of Appeal in 2017 and the Supreme Court in 2018.<sup>5</sup>

*Waitangi Tribunal - He Aha i Pērā Ai? The Māori Prisoners' Voting Report*

- 20 In 2018 the Waitangi Tribunal considered three claims that sought the repeal of total ban on prisoner voting. It released *He Aha i Pērā Ai? The Māori Prisoners' Voting Report*<sup>6</sup> in 2019.
- 21 The Tribunal found that the ban was inconsistent with the purpose of the corrections system and prejudiced the rehabilitation and reintegration of Māori prisoners. It held this to be inconsistent with the principle of active protection.
- 22 The Tribunal also found that Māori were prejudicially affected, and that the ban was a serious Treaty breach because Māori are significantly more incarcerated than non-Māori, especially for less serious crimes. It noted that young Māori are more likely to be imprisoned than non-Māori of equivalent age, impeding the development of positive voting habits, and thus the Tribunal found that practical effect of disenfranchisement was wider than the effect on individual prisoners, impacting on their whānau and communities. Finally, the Tribunal noted that the ban operated as a de facto permanent disqualification due to low rates of re-enrolment amongst released prisoners.
- 23 The report also criticised the process by which the 2010 Act was passed, finding that the Crown had failed to consult Māori and failed to provide sufficient information to the Select Committee considering the Bill about consistency with the Treaty. This resulted in failure to actively protect Māori rights and breached the Crown's duty of informed decision-making.

*UN Human Rights Committee*

- 24 In November 2023, the United Nations Human Rights Committee (the UNHRC), communicated its View that the 2010 Act breached Article 25(b) of the International Covenant on Civil and Political Rights (ICCPR), which relates to the right to vote.<sup>7</sup> The Committee's View was issued in response to a case brought on behalf of Arthur Taylor, Sandra Ngaronoa, and Sandra Wilde.
- 25 A Government Response to the UNHRC was provided in April 2024. It noted that the 2010 Act was no longer in force. It had been replaced with the 2020 Act, which meant that that only prisoners serving a sentence of three years or more were disqualified from voting. The Response further noted that the Government considered this ongoing, albeit more targeted, disqualification justified as it enhanced the criminal sanction for serious offending and enhanced civil

---

<sup>5</sup> [Taylor v Attorney-General \[2015\] NZHC 170](#); [Attorney-General v Taylor \[2017\] NZCA 215](#); [Attorney-General v Arthur William Taylor \[2018\] NZSC 104](#).

<sup>6</sup> [He Aha i Pērā Ai? The Māori Prisoners' Voting Report](#).

<sup>7</sup> New Zealand ratified the ICCPR in 1978 and went on to ratify the Optional Protocol in 1989 which provided for the Committee to receive communications ('complaints') from individuals who claim that New Zealand has breached their rights under the ICCPR.

responsibility and respect for the rule of law for those convicted of serious criminal offending.<sup>8</sup>

- 26 The UNHRC is not a further appellate tier of the New Zealand court system. Its Views are not binding or enforceable domestically but have persuasive value and member states endeavour to observe them.

### Implementation

- 27 The Electoral Commission and Corrections will be responsible for implementing these changes ahead of the 2026 General Election (which, for planning purposes, is assumed will be in Spring 2026).

### Cost-of-living Implications

- 28 These proposals are not expected to have any cost-of-living implications.

### Financial Implications

- 29 There may be some additional upfront costs for the Electoral Commission and/or Corrections to implement these changes.
- 30 I do not anticipate these costs being material enough to require additional funding, S9(2)(f)(iv)

I will provide further advice on any cost implications, and how these will be addressed, when the Bill is considered by Cabinet Legislation Committee.

### Legislative Implications

- 31 I propose to implement this proposal through the Electoral Matters Bill, S9(2)(f)(iv)

---

<sup>8</sup> <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/human-rights/international-human-rights/international-covenant-on-civil-and-political-rights/>

S9(2)(f)(iv)

- 34 Cabinet Office Circular CO (02) 4: *Acts Binding the Crown: Procedures for Cabinet Decision* notes that bills that amend existing Acts will generally follow the position of the principal Act on whether the Act is binding on the Crown. The Electoral Act 1993 does not bind the Crown, and it is proposed that the Bill will follow that position. The Bill will therefore not bind the Crown.

#### **Power to act on further decisions and minor amendments if needed**

- 35 I seek Cabinet authorisation to make any further related policy decisions consistent with the policy proposals in this paper and to make minor amendments needed to implement these decisions as required during the drafting of the Bill. I will report back on any such decisions and changes when I seek Cabinet approval to introduce the Bill.

#### **Impact Analysis**

##### **Regulatory Impact Statement**

- 36 Cabinet's impact analysis requirements apply to the proposal to ban prisoner voting, but there is no accompanying Regulatory Impact Statement and the Ministry for Regulation has not exempted the proposal from the impact analysis requirements. Therefore, it does not meet Cabinet's requirements for regulatory proposals.
- 37 On behalf of respective Ministers, the Ministry for Regulation and the Ministry of Justice have agreed that supplementary analysis will be provided before Cabinet (LEG) Committee.
- 38 In the interim, the Ministry notes the Regulatory Impact Statement which was prepared on the introduction of the 2020 Act, which canvasses the background, differing viewpoints and statistics around prisoner voting.<sup>9</sup>

##### **Climate Implications of Policy Assessment**

- 39 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

##### **Population Implications**

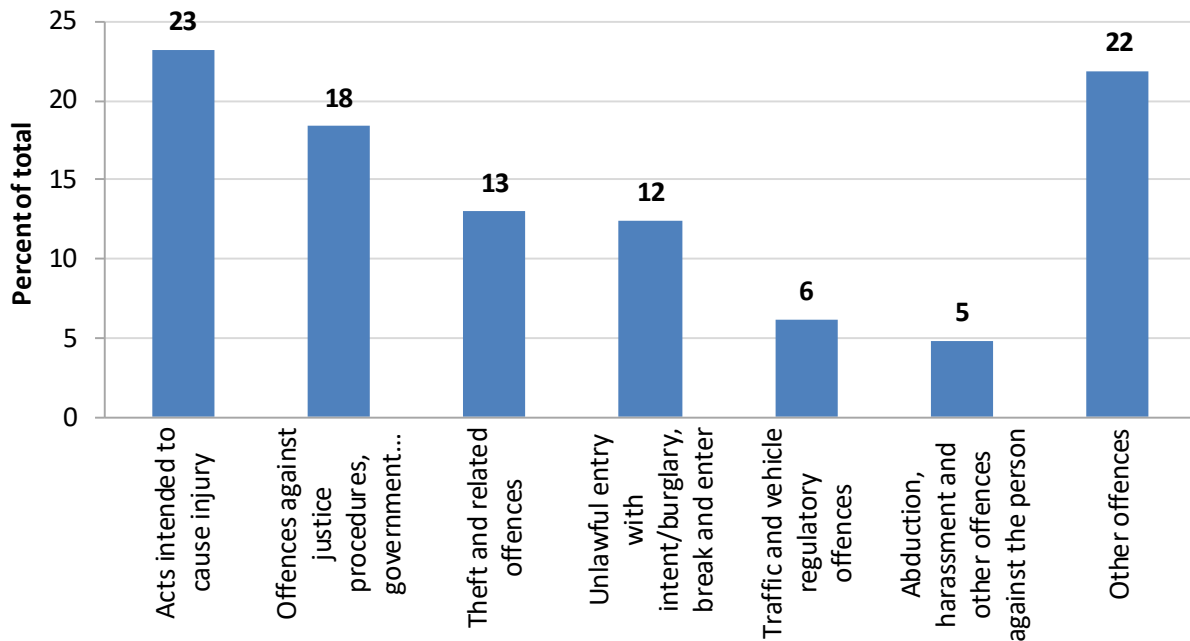
- 40 Corrections data shows that in 2024, 85 percent (5,756) of all adult offenders receiving prison sentences had sentences of under 3 years compared with 1,026 receiving sentences of 3 years or more.
- 41 Those receiving prison sentences of under 3 years in 2024 committed a wide range of offences, though as noted above, the majority were for offences below a 7-year maximum penalty. As shown in Figure 1, the most common offences were:

---

<sup>9</sup> <https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-assessment-prisoner-voting/>

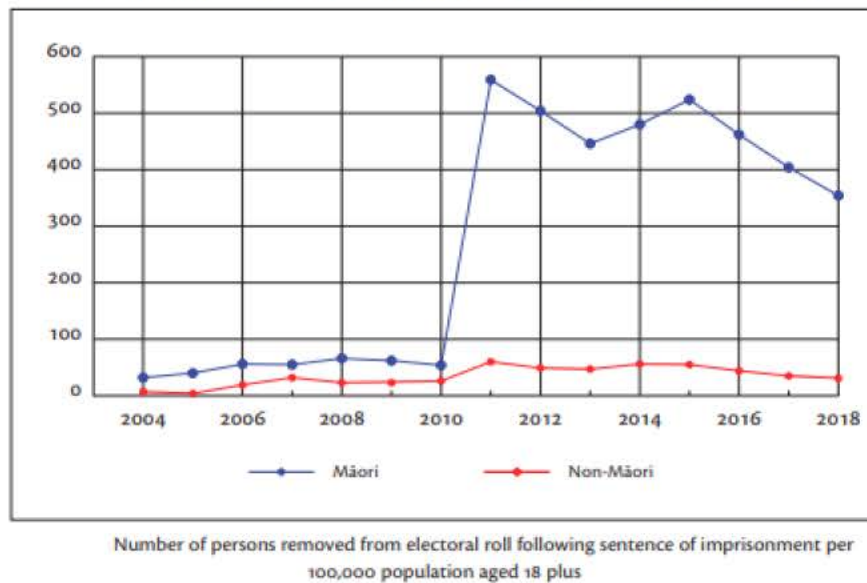
Acts intended to cause injury (23%); Offences against justice etc. (18%); theft and related offences (13%); and unlawful entry/burglary (12%). Full details on numbers of offenders by offence division and maximum penalty are provided in **Appendix 2**.

Figure 1. Number of offenders receiving prison sentences with a sentence of under 3 years, by offence (ANZSOC) division: 2024

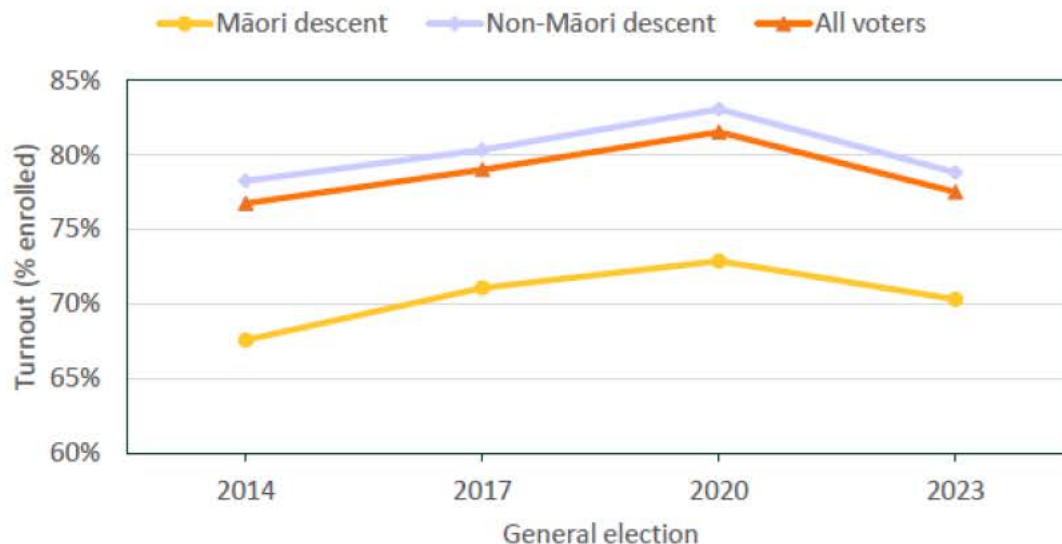


#### *A ban on prisoner voting would impact more Māori than non-Māori*

- 42 Māori accounted for 64 percent of all adult offenders receiving prison sentences of under 3 years, and 49 percent of those receiving sentences of 3 years or more.
- 43 9.7 percent of all adult offenders receiving prison sentences of under 3 years were female compared with 5.1 percent of those receiving sentences of 3 years or more. Māori women accounted for 74 percent of all Māori receiving sentences of under 3 years, compared with 65 percent of all Māori receiving sentences of 3 years or more.
- 44 Full details on offenders by ethnicity are provided in **Appendix 2**.
- 45 A ban on prisoner voting would impact more Māori than non-Māori. As Figure 2 illustrates, more Māori were removed from the electoral roll under the previous ban than non-Māori.

Figure 2: Removal from electoral roll following sentence of imprisonment<sup>10</sup>

- 46 A ban may compound an already below-average rate of democratic participation by Māori. Electoral Commission statistics show Māori are already less likely to enrol to vote, and turnout by voters of Māori descent, although improving, is still lower than among voters of non-Māori descent (see Figure 3).

Figure 3: Electoral turnout by descent, 2013-2023<sup>11</sup>

- 47 The Waitangi Tribunal also found that people are likely to leave prison with a diminished identity as a voter, which also affects their whānau and community. The Tribunal heard evidence about the importance of voting in the first ten years a

<sup>10</sup> He Aha i Pērā Ai? The Māori Prisoners' Voting Report, page 19

<sup>11</sup> <https://elections.nz/assets/2023-General-Election/Report-on-the-2023-General-Election.pdf>, page 85

person is eligible,<sup>12</sup> and found that Māori imprisoned for their first election are less likely to form a voting habit.

- 48 To help mitigate this impact, I expect that the administrative processes established in the last five years between Corrections and the Electoral Commission will continue to help facilitate enrolment for people being released from prison.

## Human Rights

- 49 As noted above, a complete ban of prisoner voting has been found to be both inconsistent with the Treaty of Waitangi and with the electoral rights in BORA.

*A ban has already been found to be inconsistent with section 12, and may also be inconsistent with section 19(1) and the Human Rights Act 1993*

- 50 The proposal limits the right to vote affirmed in section 12 of BORA. A full ban has already been found not to be justifiable under section 5 of BORA, as it is not rationally linked to the objective of punishing serious crime, given that people who are not serious offenders, for example fine defaulters, would also be disenfranchised. The proposed ban unduly constrains the right to political participation.

- 51 In addition, the data on the extent of the disproportionate impact on Māori identified during the Waitangi Tribunal proceedings could support the view that the law is also inconsistent with the right to be free from discrimination on the basis of race, national or ethnic origin affirmed in BORA. It may therefore engage section 19(1) of the BORA, and if so, is unlikely to be justifiable under section 5 of BORA.

*A ban will affect our international standing on human rights*

- 52 The right to vote is recognised by Article 25 of the ICCPR, to which New Zealand is a signatory. The UNHRC has noted that the Article 25 right to vote must only be restricted where such restrictions are "objective and reasonable", and that if a country decides that a "conviction for an offence is a basis for suspending the right to vote" the suspension must be "proportionate to the offence and the sentence".

- 53 In this context, the UNHRC sees blanket prisoner voting bans as inconsistent with the ICCPR and as serving no rehabilitative purpose. It has specifically noted the "significant racial implications" of prisoner voting prohibitions, given the disproportionate representation of ethnic minorities in most prison populations.

- 54 The proposal may also be inconsistent with New Zealand's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (especially article 5(c), which affirms the right to be free from discrimination in respect of voting rights), and the Declaration on the Rights on Indigenous Peoples.

## Use of external resources

- 55 No external resources were engaged in the preparation of the advice in this paper.

---

<sup>12</sup>Evidence presented by claimant witnesses Dr Ann Sullivan and Professor Janine Hayward. *He Aha i Pērā Ai? The Māori Prisoners' Voting Report*, page 22

## Consultation

- 56 Due to time constraints, no departmental consultation has been undertaken. The Electoral Commission, the Department of Corrections, the Ministry for Regulation, the Department of Internal Affairs (Local Government), the Treasury and the Department of the Prime Minister and Cabinet (Policy Advisory Group) have been informed about the proposals in this paper.
- 57 Further consultation with relevant agencies will be completed ahead of seeking Cabinet approval to introduce the Bill.

### *Ministry of Justice comment*

- 58 The Ministry of Justice does not support the proposal to disqualify all prisoners from voting. The Ministry notes that disqualifying all prisoners from voting is inconsistent with NZBORA, our international human rights obligations and the Crown's Treaty obligations.
- 59 The Ministry considers that removing the right to vote is an additional punishment on top of incarceration, rather than incidental to it, yet there is no evidence that suggests disqualifying all sentenced prisoners from voting deters people from committing crimes, or helps victims feel safer.
- 60 The Ministry also notes that, if the proposals in this paper proceed, the prisoner voting rules will have changed four times over seven elections. The Ministry is concerned that continual changes to the voter eligibility rules undermines voter trust in, and respect for, our core democratic values. The Ministry states its preference for a slower, more consultative approach to electoral reform. This would honour the convention that substantive changes to democratic rights should be enduring and occur only following careful consideration and with broad public support.

## Communications

- 61 I propose to issue a press release announcing the re-introduction of the prisoner voting ban shortly, following Cabinet policy approvals.

## Proactive Release

- 62 I will proactively release this Cabinet paper, with appropriate redactions, on or within 30 business days of the proposals being announced, in accordance with Cabinet Office circular CO (23) 4.

## Recommendations

- 63 The Minister of Justice recommends that the Committee:
- 1 **agree** to amend the Electoral Act so that anyone convicted and detained in prison under a sentence of imprisonment is disqualified from voting;
  - 2 **agree** that the existing prisoners serving a sentence of less than three years at the time the bill commences would not be disqualified for registration on the grounds



of their existing sentence of imprisonment, and that prisoners who would have been disqualified under the 2020 Act would remain so;

- 3 **note** that the Minister has sought advice on whether people who have committed a crime but who may not be in prison on mental health grounds or due to an intellectual disability should also be disqualified from voting, and will report any changes when seeking approval to introduce the bill;

*Human rights inconsistencies*

- 4 **note** officials' advice that a full ban on prisoner voting is not consistent with the New Zealand Bill of Rights Act 1990, nor with Article 25 of the ICCPR, to which New Zealand is a signatory, nor with the Crown's Treaty obligations;

*Legislative implications*

- 5 **note** that these proposals will be given effect through the Electoral Matters Bill, S9(2)(f)(iv)
- 6 **invite** the Minister of Justice to issue drafting instructions to give effect to the decisions in these recommendations; and
- 7 **authorise** the Minister of Justice to make further related policy decisions in line with the policy proposals in this paper as well as minor and technical amendments that may arise during the drafting process.

Authorised for lodgement

Hon Paul Goldsmith

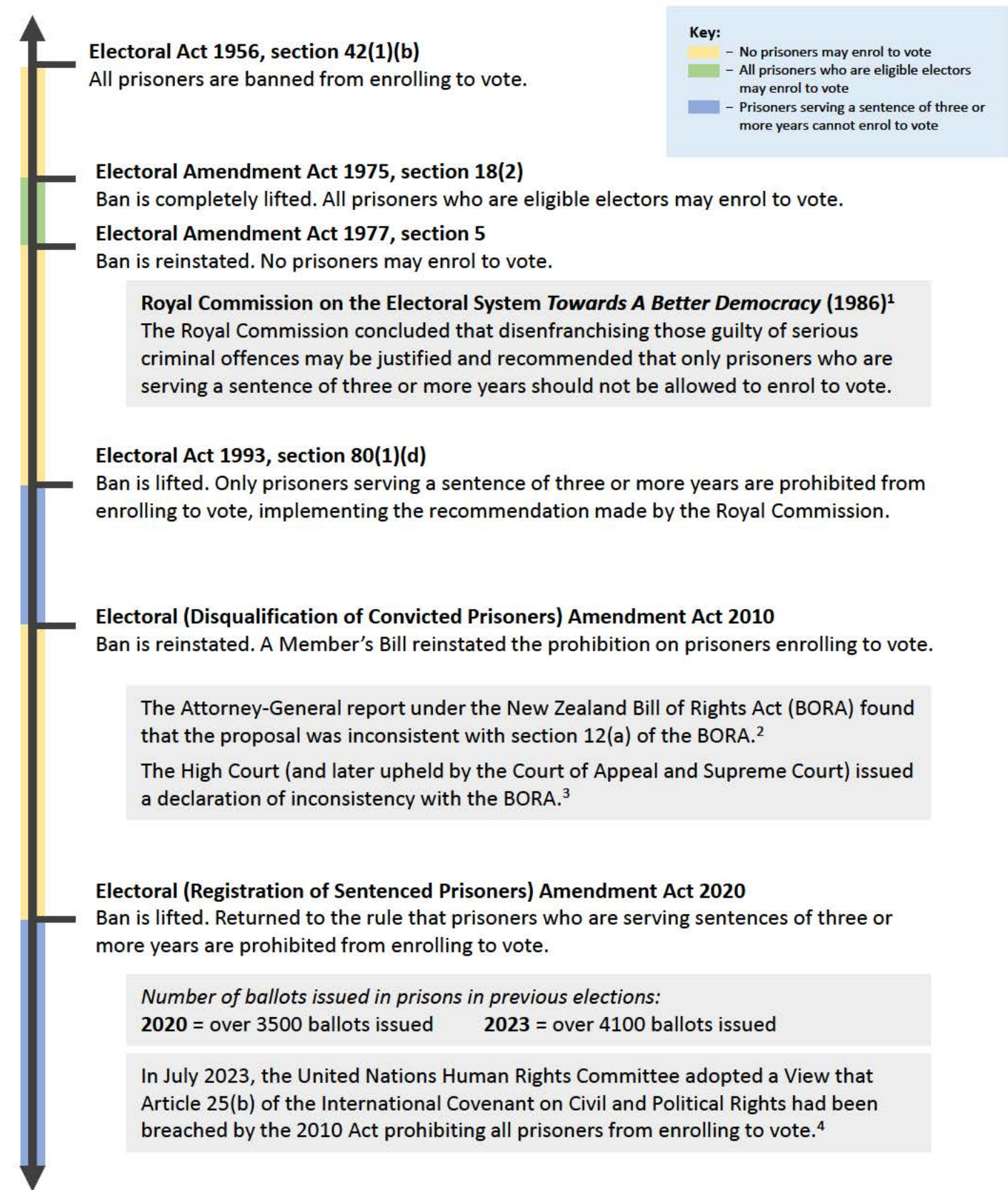
Minister of Justice

Appendix 1: History of prisoner voting in New Zealand (1956-2023)

Appendix 2: Sentenced prisoners by offence seriousness, sentence length and ethnicity



# Appendix 1: History of prisoner voting in New Zealand (1956-2023)



<sup>1</sup> The report of the Royal Commission can be found here: <https://gg.govt.nz/sites/default/files/2021-06/RC%20139%20Electoral%20System.pdf>

<sup>2</sup> The report of the Attorney-General can be found here: <https://www.justice.govt.nz/assets/a26a5ac01f/BORA-Electoral-Disqualification-of-Convicted-Prisoners-Amendment-Bill.pdf>

<sup>3</sup> New Zealand Supreme Court decision, which upholds the decision of the lower courts, can be found here: <https://www.courtsofnz.govt.nz/assets/cases/2018/2018-NZSC-104.pdf>

<sup>4</sup> UNHRC decision on the New Zealand Government response can be found here: <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/human-rights/international-human-rights/international-covenant-on-civil-and-political-rights/>



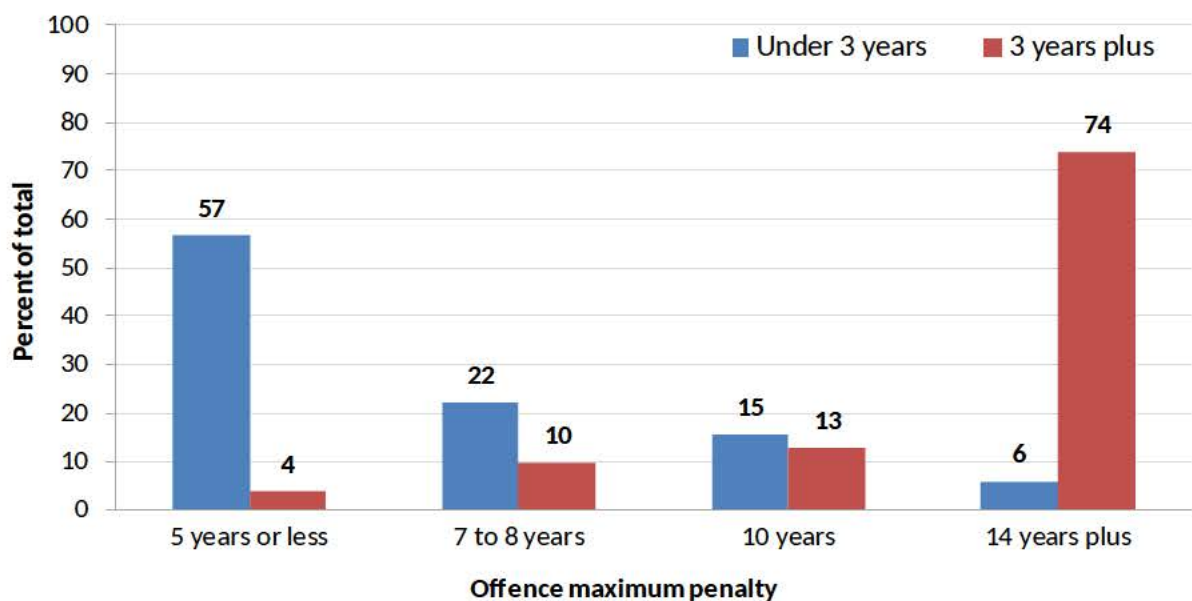
## Appendix 2:

## Sentenced prisoners by offence seriousness, sentence length and ethnicity

Offence seriousness and type<sup>1</sup>

- 1 Offenders receiving prison sentences of 3 years or more were extremely more likely than those receiving sentences of under 3 years to have committed the most serious offences. As shown in Figure 1, in 2024:
  - 74 percent of all those receiving prison sentences of 3 years or more committed offences with at least a 14-year maximum penalty compared with only 6 percent of those receiving prison sentences of under 3 years;
  - 4 percent of all those receiving prison sentences of 3 years or more committed offences with a maximum penalty of 5 years or less compared with 57 percent of those receiving prison sentences of under 3 years; and,
  - 32 percent of all those receiving prison sentences of 3 years or more were sexual offenders, while 11 percent had committed robbery, compared only 3 percent and 2 percent respectively of those receiving prison sentences of under 3 years.
  - Of those receiving prison sentences of 3 years or more in 2024, for offences with at least a 14-year maximum penalty: 38 percent committed sexual violence offences; 19 percent committed Class A/B drugs sell/supply/manufacture/import etc. offences; 14 percent committed GBH and other very serious assaults; 13 percent committed robbery/extortion; and 9 percent committed homicides (ANZSOC divisions).
  - Of those receiving prison sentences of under 3 years in 2024, for offences with at least a 14-year maximum penalty: 38 percent committed Class A/B drugs sell/supply/manufacture/import etc. offences; 21 percent committed robbery/extortion; and 12 percent committed sexual violence offences. Percentages were less than 10 percent for all other offence types (ANZSOC divisions).

- 2 *Figure 1. Percentage of offenders receiving prison sentences, by sentence length imposed and offence maximum penalty: 2024*



<sup>1</sup> The data is provided from two data sources. Proportions and rates of adult offenders receiving prison sentences are compared using Tier 1 Courts data (as at March 2025), while proportions and rates of offenders currently in prison serving a sentence are compared using Corrections data (as at 28 March 2025).

**IN CONFIDENCE**

- 3 Full details on numbers of offenders by offence division and maximum penalty are provided in Table 1.

*Table 1. Number of offenders receiving prison sentences with a sentence of under 3 years, by offence (ANZSOC) division and maximum penalty: 2024*

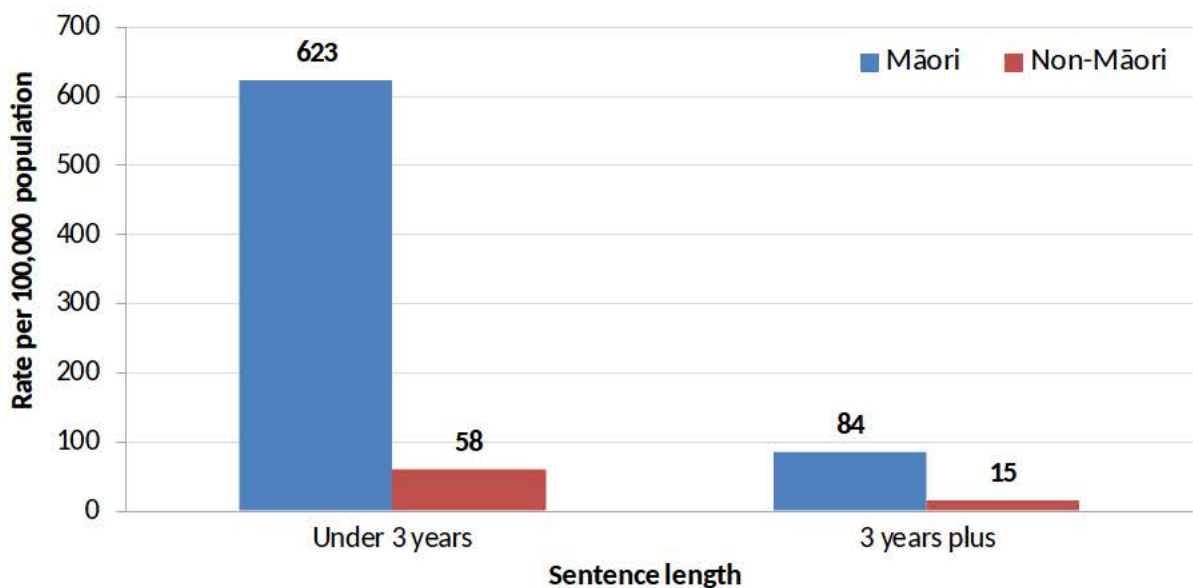
<b>ANZSOC division</b>	<b>Maximum penalty</b>					<b>Total</b>
	12 months or less	2 to 5 years	7 to 8 years	10 years	14 years plus	
01: Homicide and related offences		2		11	6	<b>19</b>
02: Acts intended to cause injury	117	931	240	25	21	<b>1,334</b>
03: Sexual assault and related offences		4	63	68	40	<b>175</b>
04: Dangerous or negligent acts endangering persons	28	25		9	3	<b>65</b>
05: Abduction, harassment and other offences against the person	31	23	205		22	<b>281</b>
06: Robbery, extortion and related offences			25	43	71	<b>139</b>
07: Unlawful entry with intent/burglary, break and enter		1		695	20	<b>716</b>
08: Theft and related offences	171	56	522			<b>749</b>
09: Fraud, deception and related offences	6	4	121	14		<b>145</b>
10: Illicit drug offences	48	4	49	10	125	<b>236</b>
11: Prohibited and regulated weapons and explosives offences	17	240	1	2		<b>260</b>
12: Property damage and environmental pollution	25	49	33	4	21	<b>132</b>
13: Public order offences	46	28		9	2	<b>85</b>
14: Traffic and vehicle regulatory offences	23	335				<b>358</b>
15: Offences against justice procedures, government security and government operations	533	503	21		1	<b>1,058</b>
16: Miscellaneous offences	3	1				<b>4</b>
<b>Total</b>	<b>1,048</b>	<b>2,206</b>	<b>1,280</b>	<b>890</b>	<b>332</b>	<b>5,756</b>



**Rates of offenders receiving prison sentences by ethnicity**

- 4 In 2024, Māori accounted for 64 percent of all adult offenders receiving prison sentences of under 3 years, and 49 percent of those receiving sentences of 3 years or more.
- 5 When adjusted for differences in populations aged 18 plus, Figure 2 shows that Māori were 10.7 times more likely than non-Māori to receive a prison sentence of under 3 years (623 per 100,000 population aged 18 plus compared with 58 per 100,000 population aged 18 plus for non-Māori). In contrast Māori were 5.7 times more likely than non-Māori to receive a prison sentence of 3 years or more years (84 per 100,000 population aged 18 plus compared with 15 per 100,000 population aged 18 plus for non-Māori).

*Figure 2. Number of offenders receiving prison sentences per 100,000 population aged 18 plus, by ethnic group and sentence length imposed: 2024*





# Cabinet

## Minute of Decision

---

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

---

### Electoral Matters Bill (Paper 4): Further Policy Approvals

**Portfolio**                      **Justice**

On 14 April 2025, Cabinet:

- 1        **agreed** to amend the Electoral Act 1993 so that anyone convicted and detained in prison under a sentence of imprisonment is disqualified from voting;
- 2        **agreed** that the existing prisoners serving a sentence of less than three years at the time the Electoral Matters Bill commences would not be disqualified for registration on the grounds of their existing sentence of imprisonment, and that prisoners who would have been disqualified under the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 would remain so;
- 3        **noted** that the Minister of Justice has sought advice on whether people who have committed a crime but who may not be in prison on mental health grounds or due to an intellectual disability should also be disqualified from voting, and will report any changes when seeking approval to introduce the bill;
- 4        **noted** officials' advice that a full ban on prisoner voting is not consistent with the New Zealand Bill of Rights Act 1990, nor with Article 25 of the International Covenant on Civil and Political Rights, to which New Zealand is a signatory, nor with the Crown's Treaty of Waitangi obligations;
- 5        **noted** that the policy under CAB-25-SUB-0122 will be given effect through the Electoral Matters Bill, **S9(2)(f)(iv)**
- 6        **invited** the Minister of Justice to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions under CAB-25-MIN-0122;
- 7        **authorised** the Minister of Justice to make further related policy decisions in line with the decisions under CAB-25-MIN-0122, as well as minor and technical amendments that may arise during the drafting process.

Rachel Hayward  
Secretary of the Cabinet

**Aide memoire: Paper 4: Electoral Matters Bill – Policy approvals (disqualification of sentenced prisoners from voting)**

Hon Paul Goldsmith, Minister of Justice

Cabinet 14 April 2025

**Purpose**

1. This aide memoire is to support discussions at Cabinet (CAB) on Monday 14 April on your paper, titled *Paper 4: Electoral Matters Bill – Policy approvals (disqualification of sentenced prisoners from voting)* (the **paper**). Some Talking Points are attached as **Annex 1** below.

**The paper proposes disqualifying sentenced prisoners from voting**

2. The paper is part of a suite of papers relating to the Electoral Matters Bill (the **Bill**); **S9(2)(f)(iv)**
3. Paper 4 seeks agreement to ban all sentenced prisoners from enrolling and voting in both general and local elections, and consequentially from standing as candidates.
4. Under current settings, prisoners serving a sentence of three years or more are disqualified from voting. The paper proposes taking a similar position to the Electoral (Disqualification of Convicted Prisoners) Amendment Act 2010, which prevented all prisoners from enrolling as an elector and therefore from voting in elections.<sup>1</sup> The paper proposes to include these amendments in the Bill, **S9(2)(f)(iv)**
5. The ban on voting:
  - will apply to prisoners sentenced after commencement of the Bill (i.e. is not retrospective);
  - will not apply to people detained on remand or serving a sentence of home detention; and
  - will not change the existing processes between Corrections and the Electoral Commission which support prisoners to enrol to vote upon their release.

*You have sought further advice on people committed to a hospital or secure facility*

6. Under the Electoral Act 1993, a person who has committed a crime but is detained for more than three years in a hospital or secure facility on mental health grounds or due to an intellectual disability, also loses the right to vote.
7. The paper notes that you have asked officials for further advice on whether the voting ban should also apply to people committed to a hospital or secure facility. You have sought delegated authority to make policy decisions on this matter, subject to confirmation by Cabinet before the Bill is introduced. **[Cabinet paper, paragraph 15]**

**Banning all sentenced prisoners from voting raises significant human rights issues**

*Potential inconsistencies with NZBORA*

8. A full ban on prisoner voting is expected to attract a section 7 report under the New Zealand Bill of Rights Act (NZBORA) for being inconsistent with section 12 (the right to vote) and possibly section 19 (freedom from discrimination). It is unlikely this will be justifiable under section 5 of NZBORA.

---

<sup>1</sup> For more information on some of the key developments with prisoner voting, see **Appendix 1** of the paper.

## BUDGET SENSITIVE

9. Following previous decisions of the Supreme Court<sup>2</sup> it is likely that, if challenged, the Courts will declare that a prisoner voting ban is inconsistent with the electoral rights set out in NZBORA. **[Paragraphs 17-19]**

*A ban on prisoner voting would impact more Māori than non-Māori*

10. Given Māori over-representation in New Zealand's prison population, a prisoner voting ban would impact Māori more than non-Māori. It may compound an already below-average rate of democratic participation by Māori. **Appendix 2** of the paper provides more information on the impact of a prisoner voting ban on Māori (see in particular **Figures 2 and 3**).
11. The Waitangi Tribunal has found that the 2010 ban on prisoner voting:
- was inconsistent with the purpose of the corrections system;
  - prejudiced the rehabilitation and reintegration of Māori prisoners; and
  - was a breach of the Treaty of Waitangi.<sup>3</sup> **[paragraphs 20-23]**

*A ban on prisoner voting has implications for international and domestic human rights*

12. A ban on prisoner voting will affect New Zealand's international standing on human rights:
- The United Nations Human Rights Committee has found that a ban on prisoner voting is contrary to the right to vote recognised in the International Covenant on Civil and Political Rights; and
  - It may also be inconsistent with New Zealand's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and the Declaration on the Rights on Indigenous Peoples.
13. As the ban on prisoner voting will have a disproportionate impact on Māori, the policy may also be inconsistent with the right to be free from discrimination on the basis of race, national or ethnic origin as affirmed in NZBORA. The policy may therefore engage section 19(1), which relates to everyone's right to be free from discrimination (including on the ground of race, ethnic or national origin). **[paragraphs 49-53]**

### Financial implications

14. There may be some additional upfront costs for the Electoral Commission and/or Corrections to implement these changes. These will need to be absorbed into existing baselines. **[paragraphs 29-30]**

S9(2)(f)(iv)

15. You are proposing that the prisoner voting changes are included in the Electoral Matters Bill. S9(2)(f)(iv)

---

<sup>2</sup> *Attorney-General v Arthur William Taylor* – The High Court issued a declaration that the prohibition on prisoner voting was inconsistent with the electoral rights guaranteed in NZBORA in 2015. This was upheld by the Court of Appeal in 2017 and the Supreme Court in 2018.

<sup>3</sup> *He Aha i Pērā Ai? The Māori Prisoners' Voting Report*

## Annex 1

### Talking points

- I seek Cabinet agreement to amend the Electoral Act to disqualify all sentenced prisoners from voting in local and general elections.
- The voting ban will not apply to people being detained on remand or serving a sentence of home detention.
- I am seeking delegated authority to make policy decisions on whether people who have committed a crime but may not be in prison on mental health grounds or due to an intellectual disability, should also be disqualified from voting.
- The proposal will reverse changes the previous government made to the Electoral Act in 2020, which restored voting rights for all prisoners serving a prison sentence of less than three years.
- My proposed change will establish a consistent approach to prisoner voting, regardless of the length of sentence.

### Human rights implications

- Officials have advised that re-introducing a full ban on prisoner voting is likely to attract a section 7 report for being inconsistent with section 12 of the Bill of Rights Act, which sets out the right to vote in elections. A total ban is unlikely to be justifiable under section 5.
- I consider a potential section 7 report to be outweighed by the signal that a temporary loss of voting rights sends to those convicted of a crime, and wider society, about the value of the right to vote.
- I am also aware that a ban on prisoner voting will affect New Zealand's international standing on human rights under the International Covenant on Civil and Political Rights. It may also be inconsistent with New Zealand's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and the Declaration on the Rights of Indigenous Peoples.