

Government Response to Justice Committee interim report
Inquiry into the 2020 General Election and Referendums

Presented to the House of Representatives

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Government Response to the Justice Committee interim Report

Introduction

1. The Government welcomes the Justice Committee's interim report: Inquiry into the 2020 General Election and Referendums, published on 22 December 2021.
2. The report makes nine recommendations, all by majority. The National Party made four alternative recommendations to those made by the Committee majority. The Government has examined the Committee's recommendations and responds to the report in accordance with Standing Order 256.

Background

3. In February 2021, the Justice Committee initiated an inquiry into the 2020 General Election and Referendums. The Committee identified four main themes for investigation:
 - 1) The resilience of our electoral system in the face of civil emergencies, with a particular focus on lessons learned from the COVID-19 pandemic.
 - 2) The integrity and security of our electoral system in light of emerging challenges, with a particular focus on technology and social media.
 - 3) The rise of advance voting, with a particular focus on whether any rules governing the regulated period should change in light of the increase in advance voting.
 - 4) The accessibility of the voting system for people with disabilities and New Zealand's growing ethnic communities whose first language may not be English.
4. The Committee's interim report makes nine recommendations. The report grouped its recommendations into three categories, being resilience of the electoral system (seven recommendations), advance voting (one recommendation), and electoral participation (one recommendation).

Government's current electoral law initiatives

5. The Government thanks the Justice Committee for its report.

Three recommendations will be considered in the Independent Review of Electoral Law

6. On 5 October 2021 the Government announced an Independent Review of Electoral Law (the Independent Review). This review is being undertaken ahead of the 2026 General Election, with an independent panel to report back in late 2023. It is expected that further significant changes to the Electoral Act 1993 ('the Act') will be made following that review (in the next parliamentary term).
7. The Government considers that the Independent Review is best positioned to undertake detailed consideration of three of the Committee's recommendations, namely:
 - reviewing the legislative framework for elections, to ensure there is adequate resilience to emergencies;
 - reviewing the rules for election day advertising at section 197 of the Act and their alignment with the rules that apply during the advance voting period; and

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- supporting further public and political debate on strengthening civic education in the school curriculum and whether 18 remains the best age to enfranchise voters.

The Government will consider amending the overseas voter eligibility rules before 2023

8. In its report the Committee recognises the unique challenges that the Covid-19 travel restrictions and mandatory isolation requirements have created for New Zealanders wishing to travel back to New Zealand over the last two years.
9. The Committee recommended, by majority, amendments to the Act to change the overseas voter eligibility criteria to address situations where voters have been prevented from returning to New Zealand by circumstances out of their control, such as a pandemic. The National Party recommended a temporary change for the 2023 General Election only, to address the current difficulties with international travel due to the Covid-19 pandemic.
10. The Government agrees with the Committee's recommendation to consider the overseas voter eligibility rules, in order to uphold the voting participation rights of New Zealanders.
11. The Government will consider introducing an amendment ahead of the 2023 General Election to extend the period of time in which overseas voters may be outside New Zealand while retaining their voting eligibility. It is envisaged that any such amendment would apply to the 2023 General Election. The broader issue of voting eligibility involves a number of policy issues, and the Government considers the Independent Review should be left free to consider these issues.

The Government will aim to progress the remaining five recommendations before the 2023 General Election

12. The remaining five recommendations require minor changes to the Act or the Electoral Regulations 1996 ('the Regulations'). These include amendments to:
 - allow overseas voters' marks and signatures produced through physical action to be captured electronically;
 - allow all overseas voters who are blind, vision impaired, or have a physical disability and are unable to mark the ballot paper without assistance to be able to access the telephone dictation service;
 - enable New Zealanders to apply for a special vote by phone, and by any other method approved by the Electoral Commission;
 - amend legislation to provide that a special vote returned by post in an envelope that is not postmarked or date-stamped is valid if it is received by a Returning Officer or an Issuing Officer on or before election day; and
 - review the rules for how the regulated period is determined for any election.
13. The Government supports these recommendations, and will aim to make the necessary amendments, where practicable, through an Electoral Amendment Bill or Electoral Amendment Regulations. The Government anticipates that these changes will be implemented for the 2023 General Election.

Conclusion

14. The Government thanks the Justice Committee for its interim report.

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15. The Committee's recommendations will be considered either for possible adoption ahead of the 2023 General Election, or by the Independent Review of Electoral Law, whichever is the most appropriate given timeframes and relative complexities (of either policy issues, design or implementation).