

# Parliamentary Election (Prisoners) Amendment Act

## *Draft – For Public Consultation*

*An Amendment to the Parliamentary Election Act 1978 to allow prisoners, with less than a 12 month sentence (or with less than 12 months left of their sentence) or on parole, to vote in parliamentary elections.*

- 1) Repeal section 3(2) and replace the repealed section with:

*“(2) For the purposes of section 55(2)(c) of the Constitution (title 2 item 1) a person is disqualified for registration as an elector if on the qualifying date, he is in prison, having been sentenced to a term of imprisonment with greater than twelve months of his sentence remaining.”*

- 2) Repeal section 4(2)(e) and replace the repealed section with:

*“(e) he is in prison with greater than twelve months of his sentence remaining.”*

- 3) Insert under section 7:

*“(7) A person in prison with less than twelve months of their sentence remaining shall be registered to vote:*

- (a) In the constituency where they were registered prior to imprisonment ; or*
- (b) Their last known address prior to imprisonment (in the event of no previous registration); or*
- (c) In the event that no previous registration or last known address prior to imprisonment is known, in the constituency of their next of kin; or*
- (d) In the event none of the above is applicable, in the constituency where the prison is located.”*

- 4) Insert in section 40(1) after the word ‘disability’:

*“or imprisonment”*

## Explanatory Notes

Sections 1 and 2 amend the relevant sections of the Act to allow prisoners with less than twelve months of their sentence remaining - at the qualifying date - the right to vote in parliamentary elections. This automatically allows any person sentenced to less than twelve months imprisonment the right to vote, and also allows any person released on parole the right to vote.

Section 3 clarifies the constituency at which a person in prison, but qualifying to vote as per sections 1 and 2, is to be registered. It makes clear that such persons are to vote in the constituency they were last registered in – or last ordinarily resident in. In the exceptional event that no previous registration or residence is available or admissible, the person is to be registered in the constituency of their next of kin. Should there be no known next of kin for the person in question, only then is the person to be registered in the constituency of the institution they are registered in. This seeks to ensure every possible situation is prepared for, although it is recognised that subsections (c) and (d) are exceptional and highly unlikely to be employed in practice.

Section 4 recognises the Act already includes provision, in section 40(1) for qualified voters who may be an inmate of an institution to vote through advanced polling, and clarifies the section to ensure that those qualified to vote as per sections 1 and 2 of this amendment are able to vote accordingly.

For the sake of clarity, section 40(1) of the Act (un-amended) is copied below:

*“40(1) Where any parliamentary elector who is duly registered in the parliamentary register for a constituency in which a parliamentary election is pending is or is likely to be on the polling day an inmate of any institutions registered under subsection (4) and to be prevented by illness, infirmity or disability from travelling to the election room, it shall be lawful for such parliamentary elector to record his vote at an advanced poll to be held for that purpose at such institution on such date prior to the polling day as shall be appointed by the Register.”*