

Proposition 89 L

(2020–2021)

Proposition to the Storting (Bill)

Temporary Act relating to amendments to the Election Act and Local Government Act (measures for remedying the negative consequences of Covid-19).

*Recommendation of the Norwegian Ministry of Local Government and Modernisation
on 19 February 2021,
approved in the Council of State on the same date.
(Solberg Government)*

1 Main contents of the Proposition

In this Proposition, the Ministry of Local Government and Modernisation proposes certain temporary amendments to the Election Act and Local Government Act that have been necessitated by the outbreak of Covid-19. The purpose of the proposals is to prevent the election process from resulting in increased infection rates and ensuring that all voters have the opportunity to vote in a safe manner and thus maintain trust in the election and the legitimacy of those who are elected.

The temporary amendments to the Election Act shall ensure that voters who are ordered to isolate or are in quarantine due to Covid-19 are able to vote. Among other things, it is proposed that the period for ambulatory voting be extended to also include the weekend prior to election day and election day. The Ministry also proposes certain rules that give municipalities greater flexibility when organising ordinary voting. Among other things, this includes permitting a polling station to be geographically located outside of the polling district and that the electoral committee can decide to establish extra polling stations in a polling district if there is a local infection outbreak. Based on the potential difficulties for municipalities in ensuring that there are adequate staffing levels for the 2021 election, the Ministry also proposes abolishing the requirement that members of the electoral committee have to be registered in the Population Registry as residents of the municipality. It is also proposed to grant the electoral committee the right to decide that votes cast by way of ambulatory voting can be received by only one returning officer.

It is expected that there will be an increased number of advanced votes at this year's election. The Ministry therefore proposes that municipalities can start counting advance votes on the Sunday before election day.

To ensure that the parliamentary and Sami parliamentary elections are conducted in a manner that is adequate in terms of infection control, the Ministry proposes granting regulatory authority to order the municipalities to implement specific measures recommended by the health authorities, such as hygiene measures and contact-reducing measures.

Pursuant to the Infection Control Act, the municipal council has the authority to adopt intrusive measures to prevent or stop infection. To avoid municipalities adopting infection control measures that prevent the election from being conducted, the Ministry proposes including a provision in the Election Act that the municipal council cannot adopt infection control measures pursuant to Section 4-1, paragraph one of the Infection Control Act that will result in the 2021 parliamentary election not being able to be conducted.

The proposal does not apply to advance voting abroad or on Svalbard and Jan Mayen.

Most of the proposals are based on an assessment by a working group that examined the impact of Covid-19 on the election process. The Ministry has studied these proposals in further detail.

2 Background

The novel coronavirus (SARS-CoV-2) has been transmitted between humans since 2019 and can result in the disease known as Covid-19. On 30 January 2020, the World Health Organization (WHO) declared the outbreak of Covid-19 to be a Public Health Emergency of International Concern (PHEIC) and on 11 March 2020, the WHO declared that Covid-19 was a pandemic. The Government's strategy has been to manage the Covid-19 pandemic in a manner that enables us to remain in control of the spread of infection at all times. Control means that the burden of the disease is minimal and that the number of patients being treated by the health and care services is at manageable level.

In its report "*Knowledge, situation, prognosis, risk and response in Norway following week 48*" of 30 November 2020, the Norwegian Institute of Public Health (FHI) concluded that there will be a persistent danger during the next six months of the epidemic getting out of control locally, regionally or nationally

The Ministry considers it important to determine how the parliamentary and Sami parliamentary elections can be conducted in a safe and predictable manner. The Infection Control Act permits the adoption of invasive measures to prevent infection. At the same time, the right to vote is a constitutional right that is also protected by human rights. It would be very unfortunate if doubts were to arise regarding how and when the election can be conducted.

Disagreements about what adjustments should be made to ensure a safe and correct election could be detrimental to the legitimacy of the election. This particularly applies if such discussions arise close to the election, and if they can appear to be politically motivated. This was a challenge in several countries that held elections in 2020.

It is therefore important to have a comprehensive overview of the potential consequences the Covid-19 pandemic may have for the election. In particular, issues regarding whether the election can be postponed and the relationship between the provisions in the Constitution relating to the right to vote and infection control rules should be clarified in sufficient time before the election. This will enable any suggestions and disagreements to be discussed at an early stage. Broad political consensus on the "rules of play" for the election could increase its legitimacy.

Advance voting for the 2021 parliamentary and Sami parliamentary elections will commence on 1 July. The municipalities have already commenced their preparations for the election, which includes planning what polling stations to use and staffing needs for the entire voting period. The Ministry considers it essential that there are plans for preparedness and adaptations regarding how the election can be conducted if there are local or national infection outbreaks during the election.

3 The consultation process

On 15 December 2020, the Ministry sent for consultation a proposal for temporary amendments to the Election Act, Local Government Act and Regulations relating to elections to the Sami Parliament. The consultation paper also referred to the proposals from the Working Group on Infection Control and Elections, which are described in more detail in section 4.

The consultation period expired on 10 January 2021. The consultation paper was sent to the following consultative bodies:

The Ministries

The Norwegian Directorate for Civil Protection

The Anti-discrimination Tribunal

The Norwegian Institute of Public Health (FHI)

The County Governors

The Norwegian Directorate of Health

The Directorate of Integration and Diversity

The Equality and Anti-Discrimination Ombud

The Party Act Committee

The Council for an Age-friendly Norway

The Norwegian Board of Health Supervision

The Governor of Svalbard

The Norwegian Directorate of Elections

The Norwegian National Human Rights Institution

The Parliamentary Ombudsman for the Norwegian Armed Forces

The Office of the Auditor General of Norway

The Sami Parliament

The Sami Parliament Youth Policy Committee (SUPU)

The Parliamentary Ombudsman

The County Councils

The Municipalities

Posten Norge AS

The Norwegian Helsinki Committee

The Norwegian Federation of Organisations of Disabled People

Innvandraranes Landsorganisasjon, INLO

KS – The Norwegian Association of Local & Regional Authorities

The Norwegian Medical Association

The MiRA Centre

The Norwegian Association of the Blind and Partially Sighted

The Norwegian Association of Disabled

The Norwegian Association of Lawyers

The Norwegian Association for Persons with Intellectual Disabilities

The Norwegian Resource Bank for Democracy and Human Rights

The Norwegian Forum of Disabled Peoples' Organizations (SAFO)

The Norwegian Nurses Organisation

The Norwegian Association of Youth with Disabilities
Valgforum

Registered political parties

There were 45 consultation responses, nine of which had no remarks to make.

The following consultative bodies provided remarks to the proposals:

The Elderly Ombudsman

The Norwegian Institute of Public Health (FHI)

Asker Municipality

Bergen Municipality

Bodø Municipality

Bærum Municipality

Fredrikstad Municipality

Hareid Municipality

Hol Municipality

Hå Municipality

Lillestrøm Municipality

Nes Municipality

Nordland County Council

Nordland County Council, represented by the Council for Persons with Disabilities, Council for Senior Citizens, and Youth Advisory Council

City of Oslo

Sarpsborg Municipality

Senja Municipality

Skien Municipality

Sogndal Municipality

Stavanger Municipality

Tromsø Municipality

Trondheim Municipality

Vefsn Municipality

Faglig forum for formannskapssekretærer

KS – The Norwegian Association of Local & Regional Authorities

The following consultative bodies had no remarks to the proposals:

Ministry of Defence

Ministry of Justice and Public Security

Ministry of Transport and Communications

Ministry of Foreign Affairs

The Norwegian Directorate of Health

Namsos Municipality
Porsgrunn Municipality
Sandefjord Municipality
Steinkjer Municipality

In addition, 11 private individuals submitted consultation responses. These consultation responses generally stated that the election should proceed as normal and that no amendments are required to the Election Act, however made no reference to the draft bills as such. One of these responses concerned the specific draft bills and the Ministry has considered this.

The consultation responses are discussed in more detail under the individual proposals in section 6.

In the consultation paper, the Ministry also proposed making the same temporary amendments to the Regulations relating to elections to the Sami Parliament for the 2021 Sami parliamentary election as those that apply to the Election Act when concerning the 2021 parliamentary election. No consultative bodies provided statements regarding the Sami parliamentary election. The Ministry aims to adopt these amendments to the Regulations after the Storting has considered the proposal for temporary amendments to the Election Act.

4 Working Group on Infection Control and Elections

4.1 The composition and mandate of the working group

In June 2020, the Ministry established a working group on the conduct of the 2021 parliamentary and Sami parliamentary elections. The working group was tasked with assessing how a situation involving an ongoing pandemic may impact on the election process. The working group was also asked to identify, at an early stage, whether it considered it necessary to have measures that required statutory amendments and to continuously provide recommendations to the Ministry that require an assessment of statutory amendments. The working group was chaired by the Ministry of Local Government and Modernisation and also had representatives from the FHI, the Ministry of Foreign Affairs, the Norwegian Directorate of Elections, the City of Oslo, and Viken County.

The working group studied various infection control measures and assessed how an infection outbreak may impact on voters and election workers. The group presented its final recommendations on 11 December 2020 in the form of a report to the Ministry.

The working group received several suggestions from municipalities and county councils during this work. Input was obtained from election officials in the municipalities regarding what they consider to be the greatest challenges associated with conducting an election during a pandemic. Two dialogue meetings were also held with a selection of municipalities at which the

working group's recommendations were presented and discussed. The working group adjusted some of its recommendations following these dialogue meeting.

4.2 The working group's assessments

4.2.1 Principal assessments

The working group noted that, when compared with other countries, there is a very long period for voting in Norway. General infection control measures regarding distancing and hygiene will largely be sufficient for it to be safe to vote. The vast majority of voters will be able to vote in the normal manner while they are healthy. There are also good opportunities for voters in the risk groups to vote at times when there are few people voting.

The municipalities must take steps to ensure compliance with the recommended infection control measures, among other things, by ensuring polling stations are large enough, considering extended opening hours and increasing the number of election workers. The working group considered local adaptations to be necessary and therefore did not recommend that all municipalities be ordered to have two-day elections or special opening hours.

The working group also saw the need for some temporary amendments to the Election Act to ensure that all voters have the opportunity to vote and to give the municipalities greater freedom of action to facilitate voting, including during a potential local infection outbreak.

The working group also made reference to the fact that there are established routines in Norway for receiving votes at hospitals, institutions and the homes of voters, and recommended certain adaptations to the rules to enable these arrangements to be used to an even greater extent in the event of a local infection outbreak. The working group considered it neither possible nor appropriate to permit electronic voting because of the pandemic and noted that a crisis is not a favourable time in which to test out new solutions. In connection with this, the working group also considered whether postal voting should be permitted in Norway. Based on the challenges associated with secret ballots and security, the working group recommended that this should not be further assessed by the Ministry.

The working group was of the opinion that there must be specifically adapted guidance for foreign service missions and returning officers abroad. In light of the current infection control rules, the working group was also of the view that the Ministry should establish separate guidelines for the monitoring of elections.

The working group emphasised that the preparations for the 2021 election will be more demanding than normal, and that municipalities and county councils must start work on contingency plans as soon as possible. Regardless of the infection rate, the planning will entail increased costs for the municipalities associated with contingency agreements, rental of larger premises and purchasing of materials and the use of resources in connection with the planning. The working group was of the view that the Ministry must assess how necessary extra costs associated with emergency preparedness and infection control for the 2021 election can be compensated.

Municipalities and county councils will require training in infection control measures related to the election and guidance and practical advice on how best to prepare the election process. The working group identified a number of topics and issues for which the municipalities and county councils will require information, guidance and practical advice.

The working group was of the view that an infection control guide for conducting the election is required and thus commenced work on preparing this guide. The infection control guide will be completed by the FHI in cooperation with the Ministry of Local Government and Modernisation during February 2021.

4.2.2 Infection control when conducting an election

The working group concluded that it is also possible to safely conduct an election during a pandemic. Voting is an act that is performed in private, there are few points of contact between people, and the process takes a relatively short period of time.

The basic infection control recommendations will also apply when conducting the election:

1. Sick people must stay at home.
2. Good hand and cough hygiene and good washing and cleaning.
3. Maintain the recommended distance from people other than close relations and generally reduce contact between people.

In some cases it will not be possible during the election process to maintain the recommended distance, for example, when helping voters who require assistance to vote. In these instances, the applicable recommendations regarding the use of masks should be followed.

With regard to receiving votes from voters who are in isolation, this is acceptable as long as the infection control recommendations are complied with.

Ballot papers are not considered a major source of infection transmission. This means that ballot papers can be located as normal inside the polling booths. Voters should use hand sanitiser before and after they have been inside the booth, however there is no need for booths to be cleaned between each voter.

All voters who are unknown to the returning officer must provide proof of identity. Masks can make it difficult to identify the voter. The working group emphasised that voters wearing masks must ensure that the returning officer can identify them, for example, by removing the mask for a short period.

4.2.3 Everyone with the right to vote shall have the opportunity to vote

The working group assessed how different groups of voters should vote. This was based on assessments from the FHI and can be summarized as follows:

- Healthy voters should vote as normal, but keep their distance from others and follow basic infection control recommendations.
- Voters who are in quarantine should generally wait until the quarantine period is over before voting. If this is not possible, they must vote at an adapted polling station.

- Voters who are in isolation should generally wait until the isolation period is over before voting. If this is not possible, they must vote from home.
- Voters in risk groups can essentially vote as normal.
- Dialogue should be entered into with health and care institutions, hospitals and prisons to ensure that voters at these locations are able to vote, even if local outbreaks occur.
- Voters abroad should vote as early as possible, to be certain that they are able to vote and that the vote arrives in Norway in time.

4.2.4 The need for temporary amendments to the Election Act and the Local Government Act

The working group recommended that the Ministry proposes temporary amendments to the Election Act to ensure that all voters have the opportunity to vote, and to give municipalities greater freedom to facilitate voting, including during a potential local infection outbreak. By introducing such statutory amendments, as well as informing the municipalities of means by which to facilitate infection control, the parliamentary and Sami parliamentary elections can be safely conducted, even during a pandemic. However, this requires good organisation on the part of the municipalities. The working group proposed that the Ministry considers the following temporary amendments to the Election Act:

1. Extend the period for when the municipality can receive votes at the homes of voters who are in isolation.
2. Consider alternative procedures when receiving votes at the homes of voters.
3. Permit the municipalities to establish extra polling stations in a polling district in the event of a local outbreak.
4. Adjust the eligibility rules for members of the polling committee.

The working group also asked the Ministry to clarify what options the municipalities have in terms of using more than one room in a building as a polling station. The working group also requested that the Ministry considers whether changes can be made to when counting may commence. Furthermore, the working group asked the Ministry to assess whether a separate cross-off ballot paper with the names of all of the lists standing for election in the constituency can be used to make it easier to conduct ambulatory voting. The working group did not make any conclusions regarding whether this will make it easier for municipalities to receive votes at homes, and it was noted that the time that is saved will be limited.

4.2.5 Need for adapted training and guidance in infection control

4.2.5.1 Infection control guide

The working group considered it necessary to have a separate infection control guide for conducting elections. The purpose of the guide is to reduce the risk of infection. If the municipalities and county councils follow the recommended infection control measures in the guide, this will limit the risk of the spread of infection. It is important that electoral authorities and voters familiarise themselves with the guide. Therefore, the working group recommended that municipalities and county councils receive training in what the infection control guide means in terms

of how they conduct the election. The working group emphasised that it is not necessary for municipalities and county councils to add further measures to those described in the infection control guide.

4.2.5.2 Training and information for municipalities and county councils

The working group noted that it had received suggestions from different municipalities that clear and specific advice is required regarding what infection control rules apply and how challenges can be solved in practice. It is necessary to collate practical advice and examples of what the municipalities can do if they experience local infection outbreaks when conducting the election. The working group recommended that the Norwegian Directorate of Elections be tasked with preparing practical advice and making this available to municipalities and county councils in the Election Worker Portal.

Municipalities and county councils have an independent responsibility to provide voters with information about where, when and how they can vote. This will be particularly important for the 2021 election, because each municipality must have information that is tailored to the situation experienced by voters in their municipality, especially when concerning voters in quarantine or isolation.

The working group was also of the view that information packages which the municipalities can use for their voters should be prepared centrally.

Due to the pandemic, the standard training provided by the Norwegian Directorate of Elections for election officials in municipalities and county councils will take place digitally in 2021. The working group considered this to be an important measure, which will also make it easier for more election officials to attend the training. This training must also include training related to infection control.

The municipalities and county councils will also require digital training materials which they can use when training their own election workers. It is important that training related to infection control and special rules when conducting elections during a pandemic are included in the general training programme offered to municipalities and county councils.

The working group was of the view that further advice regarding the organisation of counting, forwarding of materials and counting controls should be provided in guides to municipalities and county councils. Guidance relating to machine counting and adequate infection control must also be included.

4.3 Follow-up

The Ministry agrees with the working group's assessment that the Covid-19 pandemic could have major consequences when conducting the 2021 parliamentary and Sami parliamentary elections. Local infection outbreaks during the election could have serious consequences if municipalities and county councils are not well prepared and do not have their contingency plans in place. The Ministry agrees with the assessment that the election can also be properly conducted during a pandemic, but that this requires good organisation on the part of municipalities and county councils.

The work on preparing an infection control guide is well underway, and the FHI is playing a vital role in this. The Ministry will ensure that the infection control guide is translated into relevant languages, including Sami languages. The Ministry also considers it important to offer training in the use of the infection control guide, and will follow this up in cooperation with the Norwegian Directorate of Elections.

The Ministry noted in the consultation paper that the consideration of voters who vote from home also having an equal opportunity to cast a preferential vote would suggest that the proposal for a separate cross-off ballot paper is not followed up any further. The proposal also involves introducing a new type of ballot paper and a new routine for conducting ambulatory voting, and the Ministry noted that this would not be expedient. The Ministry otherwise makes reference to the assessment of this in section 6.3.4.

The Ministry refers to section 6 for proposals for temporary amendments to the Election Act and Local Government Act.

5 Conducting the parliamentary and Sami parliamentary elections in 2021

5.1 Risk of delays in determining the election result

Pursuant to Royal Decree, election day was set at Monday 13 September 2021. The newly returned Storting shall convene on Friday, 1 October 2021, cf. Article 68 of the Constitution of Norway. The county electoral committee, national electoral committee and the Ministry have a number of statutory duties that need to be carried out before the Storting can be constituted. Even without a pandemic it is difficult to complete all of the tasks in time for the constituent meeting.

The county electoral committees must verify the conduct of the election in all municipalities in the constituency or constituencies that they are responsible for. The county electoral committee's protocol is an important basis for the national electoral committee's allocation of seats at large and issuing of credentials to the elected members and the Storting's verification of the election. At the 2021 parliamentary election, several county electoral committees will be responsible for more than one constituency. For example, the county electoral committee in Viken will be responsible for the Akershus, Buskerud and Østfold constituencies. Checking the count and determining the election result in three large constituencies will be a major task, which could be time-consuming, particularly if there is a local disease outbreak.

It is also expected that there will be more advance votes than in previous elections, and that the counting of votes may also take longer in 2021. The Ministry proposes that the counting of advance votes can commence on the Sunday before election day, instead of the Monday under the current system, cf. section 6.7 below, which will be a remedial measure. However, the Ministry still considers there to be a risk of delays in determining the election result. Based on the proposed amendments to the rules for receiving votes from voters who are in quarantine and isolation, the municipalities will receive a larger number of votes in envelopes than usual, and checking and counting these is a time-consuming process. Requirements for infection control

measures and distancing during the entire process of forwarding on materials and counting will also mean that this work may take longer than normal.

The appeal deadline in connection with the preparations and conduct of the election is seven days after election day. The appeals must be considered by the electoral committee in the municipality or county council before being heard by the national electoral committee. At the 2017 parliamentary election, the Ministry experienced that delays in sending materials from municipalities to county councils meant that it was difficult for the appeals to be heard by the national electoral committee and for all relevant information to be sent to the Administration of the Storting in time. Among other things, the Ministry received three appeals from municipalities and county councils *after* the new Storting had convened. Experience from the appeal process at the local government elections in 2019 indicates that it will also be very difficult to meet this deadline in 2021.

The Sami Parliament is normally convened the week after the Storting has convened. It is the view of the Ministry that the number of votes received for the Sami parliamentary election is low enough for this election result to be determined without major difficulties.

5.2 Issues relating to postponement of the election

The Constitution requires elections to be held in the month of September, and there are no rules for postponements. A potential postponement must therefore be authorised in constitutional emergency law and the threshold for this is extremely high. If there is a local or national infection outbreak shortly before the election, there may be a discussion about whether the election should be postponed. The Ministry commissioned a report from Professor Eirik Holmøyvik regarding the legal scope for this: *Assessment of the need to postpone or extend the election or hold a new election due to the coronavirus situation when concerning the 2021 parliamentary election* (Bergen 2020). The report has been included as an annex to the proposition.

Holmøyvik made the following conclusion in his report:

In light of the serious, but not insurmountable consequences that Covid-19 has had for government and society thus far, and when viewed in connection with the Norwegian electoral system, the applicable electoral rules, and the flexibility of these, it is difficult to see that the conditions for constitutional emergency law can be satisfied in connection with the 2021 parliamentary election.

Based on this report, the Ministry cannot see that it would be possible to postpone the election due to the ongoing pandemic. The Ministry would emphasise that it will only be possible to postpone the election if there is a very high level of infection, and there is a direct and immediate danger to life, cf. Article 93 of the Constitution, or health through community movement. The other conditions for exercising constitutional emergency law must also be satisfied. If the authorities can avert the damage by using other means, whether this be through legal measures such as legislation, financial measures or actual actions, these policy instruments must be tested before one can waive the rules in the Constitution. In the view of the Ministry, the proposed amendments to the Election Act in this proposition will ensure that the 2021 election can be conducted in a manner that is adequate in terms of infection control.

5.3 Advance voting abroad

5.3.1 Advance voting in the presence of returning officers

Advance voting abroad starts on 1 July in the election year, and ends on the penultimate Friday before election day, cf. Section 8-1, subsections 1 and 2 of the Election Act. Section 8-2, subsection 2 (a) of the Election Act states that any member of the Foreign Service at a paid Norwegian Foreign Service mission may receive advance votes abroad, that a member of the Foreign Service at an unpaid Norwegian Foreign Service mission can receive advance votes if the Ministry of Foreign Affairs authorises the person to do so, and that the head of mission may appoint one or more of the mission's officials to receive advance votes if this is required. Pursuant to Section 8-2, subsection 2 (b) of the Election Act, the Ministry shall appoint the returning officers at locations other than Norwegian Foreign Service missions.

5.3.2 Postal voting

Section 8-2, subsection 4 of the Election Act contains an exemption provision stipulating that voters who reside abroad and are unable to access a location where a returning officer is present may cast a vote by letter without a returning officer being present when the voter casts his/her vote. The voter him/herself must send his/her vote to the electoral committee in the municipality where the voter was last registered in the Population Registry as being a resident.

5.3.3 Advance voting abroad during a Covid-19 outbreak

According to figures from the Norwegian Directorate of Elections, 10,804 approved votes were cast abroad in the presence of appointed returning officers (embassies, consulates etc.) at the 2017 parliamentary election. 732 approved postal votes were received.

The general infection control recommendations for how voting should take place, including with regard to distancing and hygiene, will also apply in foreign countries insofar as this is appropriate. Voters abroad must also comply with local rules and routines. The Ministry does not propose any statutory amendments that would have any effect on advance voting abroad.

Postal voting may be a possible alternative if a voter is infected or if the location where the voter is residing is in lockdown. Voters can ask the Foreign Service mission to send materials to their home or use normal sheets of paper and envelopes.

The Ministry agrees with the working group that there needs to be a customised guide for Foreign Service missions and returning officers abroad and will ask the Norwegian Directorate of Elections to prepare this.

If a country is experiencing a serious infection situation which impacts on air transport or other logistics, this may result in advance votes not arriving in Norway in sufficient time to be approved by the electoral committee. It is therefore important to inform voters abroad that it is imperative that they vote early in 2021, and clear information should be provided that the voting period for voters who reside abroad will start as early as 1 July to enable voters who are concerned about the situation in their country of residence being able to vote early.

5.4 Monitoring of elections and transparency in the election process

5.4.1 Applicable law and international obligations

As a member state of, among others, the United Nations, the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE), Norway is obligated through various international agreements to both invite and accept national and international election observers. The most important agreements are the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), the OSCE Copenhagen Document from 1990 and the OSCE Charter for European Security from 1999. Conventions, recommendations and charters that Norway has acceded to are legally binding. There are also standards and guidelines that are not directly legally binding, but written on the basis of legally binding documents.

Pursuant to Article 8 of the Copenhagen Document, OSCE states are obligated to receive election observers from other member states, private institutions and organisations, and international and national observers. These obligations pertaining to the monitoring of elections have since been repeated in various international documents.

Section 15-10 of the Election Act clarifies Norway's responsibility to facilitate the monitoring of elections and regulates two factors. Firstly, the Ministry is given the authority to accredit Norwegian and international election observers from institutions or organisations to monitor the conduct of elections to the Storting or to municipal and county councils. Secondly, the municipalities have an obligation to accept accredited election observers and facilitate the monitoring of elections.

5.4.2 Monitoring of elections during the Covid-19 outbreak

The purpose of election monitoring is to assess whether the election and electoral process are in compliance with national and international laws and other universal principles of democratic elections. It is the Ministry's view that this purpose will be even more important when the election is conducted in demanding circumstances. The obligation to accept election observers will not be disregarded because of the Covid-19 pandemic. It is important for trust in the election that the fear of infection itself is not used as an argument to prevent transparency around the election process. However, any election observers at the 2021 parliamentary and Sami parliamentary elections may be influenced by factors that are outside of the control of the Ministry and municipalities. Among other things, international observers may be restricted by bans on entering and leaving the country and provisions relating to quarantine and isolation.

The Ministry would emphasise that it is important that, insofar as this is possible, the municipalities also facilitate the presence of election observers in 2021. If there are low infection rates it will be possible for election monitoring to take place in smaller groups, provided that steps are taken to ensure adequate distancing and hygiene at the polling stations. In the event of a larger local outbreak, it may be appropriate to adapt the guidelines for where and how election observers can monitor the election. The guidelines for election observers already require they

do not obstruct the election processes. For example, many municipalities will find it challenging to accommodate observers at the polling stations if they are to comply with distancing recommendations. If the presence of observers interferes with the election process in a manner that prevents the municipality from being able to safely perform its duties, alternative solutions will need to be found. It may be appropriate that certain parts of the election process (for example, counting) are observed by way of video feed. Election observers usually hold a series of meetings with different authorities and stakeholders during the election, and these can be conducted digitally.

The working group recommended that the Ministry prepares a guide stipulating how the election can be monitored in light of the current infection control rules. The Ministry has taken this into consideration. It will be assessed as to how this can best be managed until the election is held and that the necessary information regarding infection control concerns is provided to potential election observers.

5.4.3 Transparency

Transparency is an important prerequisite for there to be trust in the election process in Norway. Meetings of the electoral committees and county electoral committees must be open to the public. If remote meetings are convened, for example, by the meeting being held via video conference, these shall be made available to the public online. In the view of the Ministry, greater use of remote meetings may contribute to increased transparency around decisions by the electoral committee, because these will be more accessible to voters in the constituency than the physical meetings. The electoral committee is responsible for the counting of ballot papers. The counting of votes takes place at a meeting that is open to the public. The same applies to the counting carried out by the polling committee at the polling station. The municipalities must therefore ensure that the counting of votes can be observed by those who wish to do so.

6 Draft Bill

6.1 Location and organisation of polling stations

6.1.1 Applicable law

The electoral committee decides where it shall be possible to vote on election day, cf. Section 9-3, subsection 2 of the Election Act. There shall be only one polling station in each polling district. The polling station must be geographically located in the polling district, cf. Proposition no. 45 (2001–2002) to the Storting, p. 268.

Voting for the Sami parliamentary election is held at the same location and at the same time as voting for the parliamentary election, cf. Section 47, subsection 1 of Regulations relating to elections to the Sami Parliament. It is not possible to vote on election day in municipalities with fewer than 30 people registered in the Sami Parliament's electoral register, cf. subsection 2.

The Election Act contains no definition of a polling station. However, Section 8-3, subsection 1 and Section 9-3, subsection 2 of the Election Act state that voting shall take place in *suitable and accessible* premises. In an interpretative statement from 2020, the Ministry found that, pursuant to the Act, a polling station can consist of multiple rooms that are physically connected.

6.1.2 The proposal in the consultation paper

The Ministry stated in the consultation paper that infection control considerations will entail additional requirements for what may be deemed a suitable polling station. Larger premises are more suitable than smaller premises due to, among other things, voters being able to maintain their distance from one another and from election officials and members of the polling committee, which will reduce the risk of transmission.

Therefore, the Ministry proposed in the consultation paper to remove the condition that the polling station needs to be located in the polling district, because this may make it easier to find suitable premises. The Ministry emphasised that the requirement for the polling station to be accessible still applies, despite it being proposed that the polling station can be located outside the polling district. When assessing whether it is more appropriate to locate the polling station outside rather than inside the polling district, the electoral committee must place emphasis on whether the voters in the polling district will be easily able to access the polling station.

The Ministry noted that, in Official Norwegian Report (NOU) 2020: 6 *Free and Fair Elections*, the Election Act Commission proposed removing the requirement that the polling station has to be geographically located in the polling district. The reason for the Commission's proposal was that this would enable polling stations that were more suitable and accessible than the premises located inside the polling district to be used.

In the consultation paper, the Ministry made reference to the fact that it can be somewhat unclear as to whether the Election Act permits a polling station to consist of multiple rooms. It is correct that the Ministry found in the interpretative statement that multiple rooms can be used as long as the rooms are connected, however the Election Act and its preparatory works make no direct mention of this issue. In the view of the Ministry, there are no compelling considerations that would indicate that a polling station cannot consist of multiple rooms. In the consultation paper, the Ministry proposed legislating such a rule in order to clarify that these types of polling stations can be used. Due to infection control concerns it may be important to ensure the necessary distancing at the polling stations. One method of achieving this could be to spread the voters among multiple rooms. The requirements that the polling station must be suitable and accessible, cf. Section 8-3, subsection 1 and Section 9-3, subsection 2 of the Election Act, will also apply when the polling station consists of multiple rooms. All of the rooms in the polling station must therefore be suitable and accessible.

The proposed amendments will also apply for the Sami parliamentary election, because this election will take place at the same premises as the parliamentary election.

6.1.3 The views of the consultative bodies

The consultative bodies were generally positive towards the Ministry's proposal that the polling station does not have to be geographically located in the polling district. Several consultative bodies stated that they supported all of the proposals in the consultation paper, including *Hol Municipality*, *Stavanger Municipality*, *Trondheim Municipality* and the *FHI*. Some consultative bodies also expressed particular support for the proposal. This included *Bærum Municipality* and *Bodø Municipality*. *KS* also supported the proposal and stated the following:

KS supports the proposals for temporary amendments to the legislation to ensure that all voters have the opportunity to vote and to increase the freedom of action of the municipalities when conducting the election.

None of the consultative bodies opposed the proposal, however *Sogndal Municipality* stated that the proposal was not necessary for their part:

With regard to the proposed amendment (...) that polling stations can be located outside the polling district's geographical area, this is not an amendment to the Election Act that is necessary for *Sogndal Municipality*. Our assessment is that it is possible to find several suitable polling stations within the polling district's geographical area.

The consultative bodies also supported the proposal in the consultation paper for it to be clarified in the Election Act that a polling station can consist of multiple rooms. *Bergen Municipality* stated the following:

The proposal is supported. All rooms on the premises need to satisfy the requirement that the polling station is suitable and accessible, and there must be adequate staffing levels at the polling stations to ensure that the logistics of the election process can be clearly and properly addressed.

Lillestrøm Municipality made the following remark:

Lillestrøm Municipality is positive about (...) it being permitted that polling stations can consist of multiple inter-connecting rooms.

The proposals will make it easier for the Municipality to find polling stations that are best suited for safeguarding infection control considerations.

6.1.4 The Ministry's assessment

The Ministry makes reference to the fact that it is a fundamental consideration that elections can be conducted in a manner that is adequate in terms of infection control. The proposals to permit the use of polling stations that are located outside the polling district and to clarify that polling stations consisting of multiple rooms can be used, are intended to assist in ensuring that elections can be conducted in such a manner. The consultative bodies were in agreement with the Ministry's proposals. Among other things, *Lillestrøm Municipality* noted that the proposals will make it easier for the municipality to find the polling stations that are best suited for safeguarding infection control considerations. The Ministry agrees with this. On this basis, the Ministry proposes to continue the proposals in the consultation paper that polling stations which are not geographically located in the polling district and polling stations which consist of multiple rooms can be used.

6.2 Appointing a person as a member of the polling committee outside the municipality where he/she is registered in the electoral register

6.2.1 Applicable law

Section 4-2 of the Election Act states that in municipalities where voters can vote at multiple locations on election day, a polling committee shall be appointed at each polling station. Among other things, the polling committee is responsible for receiving votes at the polling station and conducting the preliminary count of the ballot papers that have been placed directly in the ballot box. The polling committee, which is appointed pursuant to the Election Act, also functions as a polling committee in connection with voting for the Sami parliamentary election, cf. Section 17, subsection 2 of Regulations relating to elections to the Sami Parliament.

Section 7-2 (i) of the Local Government Act regulates eligibility for popularly elected bodies, including popularly elected bodies pursuant to special legislation such as the polling committee. This provision states that, in order to be elected to the polling committee, a person must be registered in the Population Registry as being resident of the municipality on the date of the election in question.

6.2.2 The proposal in the consultation paper

The Working Group on Infection Control and Elections noted that it may be difficult for the municipalities to ensure there is adequate staffing at the 2021 election. The working group noted that if the eligibility criteria for being elected to polling committees are changed, the municipalities will also be able to elect people to the polling committee who are not registered in the Population Registry as being resident of the municipality. For example, this will make it possible to elect students who are still registered in the Population Registry as being residents of the municipality they are from to the polling committee in the municipality where they are studying.

In the consultation paper, the Ministry noted that it agrees with the working group that it could be difficult for some municipalities to ensure that they have adequate staffing levels for the 2021 election. Among other things, the pandemic and infection situation mean that the municipalities have to plan for there being a need for more reserve personnel than normal, and small municipalities in particular may have difficulties in managing this alone. One means for the municipalities to ensure that they have a sufficient number of election workers in reserve would be to enter into a partnership to establish a joint reserve pool of election workers. They can then be assigned to the municipalities where there are increased staffing needs. The legislation does not prevent this form of partnership because it is not a requirement that election workers have to live in the municipality where they are involved in the election process. A local infection outbreak may also result in many members and alternate members of the polling committee being placed in quarantine or isolation, which will then require additional members to serve on the polling committee. However, the present rule that members of the polling committee have to be registered in the Population Registry as being resident of the municipality prevents

the municipalities from being able to train and cooperate together on a reserve pool of people who can be elected as members of the polling committee. The Ministry was of the view that the serious situation caused by the Covid-19 pandemic means that this form of cooperation should be permitted. Therefore, for the 2021 election, the Ministry proposes lifting the requirement that members of the polling committee must be registered in the Population Register as being resident of the municipality.

The proposed changes will also apply for the Sami parliamentary election, because the polling committee appointed for the parliamentary election also serves as the polling committee for the Sami parliamentary election, cf. Section 17, subsection 2 of the Regulations relating to elections to the Sami Parliament.

6.2.3 The views of the consultative bodies

Several of the consultative bodies, including *Bergen Municipality* and *Lillestrøm Municipality*, supported the proposal to lift the requirement that members of the polling committee must be registered in the Population Register as being resident of the municipality. As mentioned, some consultative bodies, including *Hol Municipality*, *Stavanger Municipality*, *Trondheim Municipality* and the *FHI*, supported all of the draft bills in the consultation paper. None of the consultative bodies opposed the proposal.

Bergen Municipality had the following remarks:

We support the proposal that persons who are registered in the Population Register as being residents outside the municipality can be elected as members to a polling committee in the municipality. Bergen Municipality normally has good access to election workers and the polling committees constitute the minimum requirement of 3 members per polling station. The number of other workers will vary depending on the size of the polling district. The polling committee is elected from among the election workers who have participated at several elections and who are registered in the Population Registry as being residents of the municipality. Removing the requirement that members of the polling committee have to be residents of the municipality means that, among others, students who are residents of other municipalities, but who have participated at several elections, can now be elected to polling committees. Due to the uncertainty associated with being able to recruit people to work at an election with infection control measures, it is positive to be able to expand the pool of applicants who can be elected to the polling committee. The Municipality will require more election workers when conducting an election with infection control measures.

Lillestrøm Municipality stated the following:

Lillestrøm Municipality is positive towards the proposal that people who are not registered in the Population Registry as being residents of the municipality can be appointed as members to the polling committee. Due to emergency preparedness for potential infection outbreaks, the Municipality expects that there will be a need to recruit more staff for the 2021 election than for other elections. The option to recruit members of the polling committee from outside the Municipality will make it easier for the Municipality to ensure that there is adequate staffing for the election.

6.2.4 The Ministry's assessment

The Ministry notes that the ongoing pandemic may make it more difficult to recruit polling committee members and that there will most probably also be a need to have more people in reserve who can take the place of appointed members of the polling committee who can no longer perform this role. Removing the requirement that members of the polling committee need to be registered in the Population Registry as being residents of the municipality will make it easier to recruit members to the polling committee. For example, it will enable students who are registered in the Population Registry as being residents of another municipality to be elected to the polling committee in the municipality where they are studying. The Ministry would also note that the consultative bodies were of the view that the proposal will make it easier to ensure that there is adequate staffing for the election. The Ministry therefore proposes to continue the proposal in the consultation paper that people who are not registered in the Population Registry as being residents of the municipality can still be elected as members of the polling committee.

6.3 Voting for voters who have been ordered to isolate due to Covid-19

6.3.1 Applicable law

Section 8-3, subsection 2 (b) (for the advance voting period) and section 9-3, subsection 2 (for the election proceedings) of the Election Act state that the electoral committee decides where the voters shall be able to vote. However, not all voters can access these polling stations. It must therefore be possible to vote in advance at health and social welfare institutions, cf. Section 8-3, subsection 2 (a) of the Election Act.

Voters who cannot access a polling station due to illness or disability may, upon application to the electoral committee, vote in advance where they reside (ambulatory voting), cf. Section 8-3, subsection 6 of the Election Act. There are no formal requirements for the application. However, the application must stipulate that, due to illness or disability, the voter cannot vote in advance elsewhere. The electoral committee itself shall determine the date by which this application must have been received by the municipality. The closing date must be set at a time within the period between Tuesday and Friday in the final week before the election. The deadline for applications shall be made public.

There is no corresponding provision relating to ambulatory voting on election day.

Section 42, subsection 1 of the Regulations relating to elections to the Sami Parliament stipulates that Section 8-3 of the Election Act applies correspondingly for Sami parliamentary elections. Subsection 2 of the provision states that voters who have applied to vote in advance at the parliamentary election pursuant to Section 8-3, subsection 6 of the Election Act are not required to submit an application for being able to vote in advance at the Sami parliamentary election. The chair of the electoral committee shall ensure that the chair of the Sami electoral committee receives copies of the applications that are received.

6.3.2 The proposal in the consultation paper

6.3.2.1 Right to vote

People with confirmed SARS-CoV-2 infections and people who are in quarantine and develop Covid-19 symptoms are required to isolate, cf. Section 7 of the Regulations relating to infection control measures etc. in connection with the coronavirus outbreak (COVID-19 Regulations). This involves “staying at one’s own home or other suitable place of accommodation, isolated from others, including from other members of the same household insofar as this is possible.” Violation of this duty is a criminal offence, cf. Section 19 of the Covid-19 Regulations. Eligible voters who are obligated to isolate pursuant to the Regulations can therefore not vote at a polling station in the normal manner.

In the consultation paper, the Ministry noted that the Covid-19 Regulations have rules pertaining to the duty to isolate that constitute an infringement on an individual’s right of movement. The right to vote is protected by Article 50 of the Constitution and human rights, cf. Article 3 of the First Protocol to the ECHR. To avoid an individual’s duty to isolate infringing on a citizen’s constitutional right to vote, it is the view of the Ministry that steps must be taken to also give voters who are obligated to isolate the opportunity to vote.

6.3.2.2 The right to vote from home during the advance voting period

In its report, the working group recommended that voters who are in isolation should wait until they have recovered before voting and that the rules in the Election Act relating to advance ambulatory voting shall apply for voters who are in isolation when it is not possible for them to wait. In order for as many people as possible to have the opportunity to vote, the working group recommended that the deadline for applying for ambulatory voting cannot be set earlier than the final Friday of the advance voting period.

The Ministry expects that people who are in isolation in accordance with the Covid-19 Regulations will satisfy the present requirements for being able to apply for ambulatory voting. In order to clarify this, the Ministry noted in the consultation paper that there should be a temporary amendment to the Election Act which stipulates that people with a duty to isolate can apply to vote at their place of residence. It is currently possible for the municipalities to set the deadline at Tuesday during the final week of the advance voting period. To ensure that voters who are placed in isolation are able to vote after this date, the Ministry proposed amending the deadline for applying for ambulatory voting. The application deadline cannot be set at such a late stage that there is a risk that the municipality will not be able to receive all of the votes. The Ministry therefore proposed that the final opportunity to apply for advance voting should be 10am on the Friday before election day and that this deadline shall apply for all municipalities.

In the consultation paper, the Ministry noted that equivalent rules for the Sami parliamentary election should be stipulated in the Regulations relating to elections to the Sami Parliament.

6.3.2.3 Right to vote from home after the advance voting period

The working group also recommended extending the ambulatory voting period for voters who have a duty to isolate pursuant to the Covid-19 Regulations to also include the weekend before election day and election day. In the view of the working group, the final deadline for applying for ambulatory voting should be the morning of election day.

In the consultation paper, the Ministry referred to parts of the working group's assessment and proposed that votes can also be received from isolated voters after the advance voting period, i.e. the Saturday and Sunday before election day and on election day. The Ministry proposed that the deadline for applying to vote from home after the advance voting period is over should be 10am on election day.

A major difference between the advance voting period and election day is that during the advance voting period, voters are able to vote in municipalities where they are not registered in the electoral register.

The working group noted that expanding the option to vote from home after the advance voting period can only apply to voters who vote in their own municipality.

In the consultation paper, the Ministry also referred to the fact that situations can arise in which a voter who had planned to travel home to the municipality in which he/she is registered in the electoral register to vote on election day may be placed in isolation on the weekend prior to election day. He/she will therefore not be able to vote. Even though this will only apply to a small number of voters, the Ministry has assessed whether it is possible to make arrangements to ensure that voters are also able to vote outside their home municipality after the advance voting period. These votes are sent to the voter's home municipality for validation and counting and the votes will not be received until several days after the current approval deadline. If voters who are outside their own municipality shall be able to vote from home after the advance voting period is over, the deadline for when the votes have to be received must be postponed by two to three days. This will have consequences for when the election result is clear.

Since the Storting shall convene on 1 October 2021, the Ministry does not consider it applicable to propose amending the deadline for when votes must have been received by the electoral committee in order to be approved. The Ministry also referred to the report relating to the risk of a delayed election result.

The votes that are received in the days after the advance voting period has ended must be considered polling day votes during counting. To ensure the secrecy of the votes during counting, the Ministry proposed in the consultation paper that these votes be received in a cover envelope.

In the consultation paper, the Ministry noted that equivalent rules for the Sami parliamentary election should be stipulated in the Regulations relating to elections to the Sami Parliament.

6.3.2.4 Infection control when receiving ambulatory votes

The vote must be received at the location where the isolated voter is staying. This will most often be at the dwelling where the voter resides. The Ministry made reference to the expert infection control assessments made by the FHI in the working group. Receiving votes from voters who are confirmed as having Covid-19 is justifiable as long as there is compliance with the recommendations relating to distancing, time use and other information specified in the infection control guide. Insofar as this is possible, election workers should maintain sufficient distancing from people with suspected or confirmed Covid-19. If closer contact is necessary, the protective equipment described in the infection control guide should be used. Election workers

must receive training in conducting ambulatory voting in accordance with the infection control guide.

All voters who are unknown to the returning officer must provide proof of identity. Masks can make it difficult to identify the voter. Voters wearing masks must ensure that the returning officer can identify them, for example, by removing the mask.

6.3.2.5 *The same deadline for ambulatory voting in all municipalities*

The proposal entails that municipalities cannot set a local deadline for applying for ambulatory voting. In the view of the Ministry, there is a need for a deadline that is the same for the entire country, because this will make it easier to inform voters about the procedure for voting. This applies both to ambulatory voting during the advance voting period and ambulatory voting after the advance voting period. The Ministry proposed setting the requirement that the deadline be announced.

The Ministry proposed that voters will need to apply to the municipality to be able to vote from their place of residence. As is also the case under the current rules for ambulatory voting, no formal requirements for the application shall apply. However, the application must state that the voter is unable to vote in advance or vote on election day due to him or her having been ordered into isolation pursuant to the Covid-19 Regulations.

6.3.3 The views of the consultative bodies

Bærum Municipality, Fredrikstad Municipality, Hol Municipality, Hå Municipality, Lillestrøm Municipality, Sarpsborg Municipality, Senja Municipality, Skien Municipality, Stavanger Municipality, Trondheim Municipality, KS and the FHI supported the Ministry's proposal.

The City of Oslo did not support the Ministry's proposal for ambulatory voting for voters who are ordered into isolation on the Saturday and Sunday before election day and on election day. The City of Oslo agreed with the principle in the draft bill that the municipalities should go to great lengths to ensure that people who are suddenly ordered into statutory isolation are not deprived of their right to vote. The City of Oslo therefore supported the intent of the draft bill but noted that it would be a challenge to organise contingencies for being able to receive ambulatory votes on the Saturday, Sunday and election day, which are the most hectic days during the entire election period.

Some consultative bodies had remarks concerning the voters who should be covered by the provision. *The Elderly Ombudsman* was of the view that eligible voters who are in the risk groups should also be given the option of voting from home. *Bergen Municipality* was of the view that the Ministry should clarify whether votes will also be received from voters who are hospitalized for other reasons on the weekend prior to election day. *Lillestrøm Municipality* was of the opinion that the reference to the option to vote from home for voters registered as residents of other municipalities who are either in quarantine or isolation was somewhat unclear. *Tromsø Municipality* stated that it should be clearly communicated that the option of applying for ambulatory voting on the weekend prior to election day and on election day only applies to voters who are included in the municipality's electoral register.

Other consultative bodies did not support the Ministry's proposal of a deadline for applying for ambulatory voting on election day. *Bodø Municipality* and *Nordland County Council* noted that the proposed deadline for applying to vote from home on election day would be difficult to manage. The Municipality has a large geographical area which includes several island communities and ferry services. If it transpires that many people will need to vote from home on election day, it may be difficult to cover the entire municipality at such short notice when considering the distances involved. *Bodø Municipality* was of the opinion that the deadline should be set at 10am on the Sunday before election day. *The City of Oslo* also did not support the Ministry's proposed application deadline. The City of Oslo was of the view that the deadline should be set at 10am on the Saturday before election day. The City of Oslo also stated that municipalities with a less challenging geographical situation could themselves be permitted to set a later deadline.

The City of Oslo also noted that it may be a challenge to receive ambulatory votes cast in advance from everyone who applies for this on the Friday before election day if there is a major infection outbreak among, for example, students registered in other municipalities, immediately prior to the deadline.

Vefsn Municipality questioned why votes had to be cast in ballot paper envelopes on the Saturday before election day. The Municipality considered such a manual routine to be unnecessary when this could be solved by using EVA. In the consultation response, the Municipality wrote that the advance voting period must either be extended or election proceedings expedited in EVA. *Skien Municipality* and *Hol Municipality* were of the view that the Ministry should reconsider whether a separate cross-off ballot paper should be used at the 2021 election.

6.3.4 The Ministry's assessment

Most of the consultative bodies that provided statements supported the proposal for a temporary amendment to the Election Act to enable eligible voters who are ordered into isolation because of Covid-19 to have the opportunity to vote. The Ministry therefore maintains the proposal for separate rules for advance ambulatory voting and ambulatory voting on election day for voters who are ordered into isolation due to Covid-19.

Some consultative bodies had remarks regarding who will be covered by the provisions relating to ambulatory voting. *Lillestrøm Municipality* asked the Ministry to clarify the options for voting from home for voters registered as residents in other municipalities who are either in quarantine or isolation. The Ministry proposes that voters who are residing or staying in a different municipality to where they are registered to vote and who have been ordered into isolation because of Covid-19, shall be able to vote in advance in this municipality. The right to vote from home on the Saturday and Sunday before election day and on election day will only apply to voters who vote in the municipality in which they are included in the electoral register.

In its consultation statement, *Bergen Municipality* noted that the Ministry should clarify whether votes will also be received from voters who have been hospitalised for reasons other than Covid-19 on the weekend before election day. The Ministry does not propose extending the general right to ambulatory voting for voters who are sick and disabled to also apply after the

advance voting period. The Ministry would note that this issue is not linked to the ongoing pandemic and that the inability of these voters to cast their vote is not due to restrictions on freedom of movement that have been imposed. The Ministry proposes that only voters who are required to be in isolation due to Covid-19 and thus prevented from voting under the ordinary rules shall be able to apply for ambulatory voting after the advance voting period. The authorities have decided that these voters are required to remain isolated from others. In order for the duty to isolate to not constitute an infringement of the constitutional right to vote, separate rules are required for this group of voters to be able to vote at the election this year.

Tromsø Municipality noted that it should be clearly communicated that the option of applying for ambulatory voting on the weekend prior to election day and on election day only applies to voters who are included in the electoral register in that municipality. The Ministry emphasises that it is important voters are provided with clear information about the options they have for casting their vote. Voters residing or staying in a municipality in which they are not included in the electoral register should be made aware that if they are ordered into isolation or quarantine after the advance voting period has ended, they will not have the option of casting an ambulatory vote in that municipality. Out of consideration to the municipalities' conduct of the election, voters should also be requested to apply to vote from home as early as possible to enable the municipalities to focus their resources during the final week before election day on voters with newly arisen needs.

The Elderly Ombudsman was of the view that older eligible voters in the risk groups who live in self-imposed isolation based on advice from the authorities should also be given the option of applying to vote from home. The Ministry would note that the FHI's assessment of this was that when the infection control guide is followed, there is an extremely low risk of infection at the polling stations. It will therefore normally be acceptable for voters in the risk groups to also vote at a polling station. The Ministry emphasises that it is important to provide information to voters to ensure that people who are in the risk groups do not refrain from voting due to fear of infection. The Ministry notes that there is a long advance voting period and early voting is already possible from 1 July. There are thus opportunities for people in the risk groups to vote during periods in which there are few people at polling stations.

In its consultation statement, *Vefsn Municipality* proposed that separate opening hours for voters in the risk groups should be laid down in regulations. The Ministry is positively disposed towards the municipalities taking steps to enable voters in the risk groups to vote, for example, by them being informed of times in which there are few people at polling stations and recommended to vote during these times. However, the Ministry has not found there to be a need for proposing the temporary statutory authority to lay down regulations for opening hours that are reserved for voters in the risk groups.

Bodø Municipality, the *City of Oslo* and *Nordland County Council* did not support the Ministry's proposed deadline for applying for ambulatory voting of 10am on election day. *Bodø Municipality* was of the opinion that the deadline should be set at 10am on the Sunday, while the *City of Oslo* was of the view that it should be set at 10am on the Saturday. The Ministry acknowledges that it can be particularly demanding for municipalities with a large geographical area if many people will need to vote from home on election day. However, the Ministry assumes that the mu-

municipalities will be aware of local infection outbreaks for a certain period of time prior to receiving the test results and will have the opportunity to plan accordingly. Out of consideration to all voters being provided with the same information, the Ministry therefore proposes maintaining the proposal of having the same deadline for applying for ambulatory voting of 10am on election day for all municipalities.

In its consultation statement, *Vefsn Municipality* noted that it was unnecessary to use cover envelopes for votes that are received after the advance voting period has ended. The reason for the Ministry's proposal that the votes should be received in envelopes is that the Norwegian Directorate of Elections needs to prepare the EVA election administration system for election day when normal advance voting has concluded. This means that it will not be possible to cross off voters in the electronic electoral register on the Saturday and it will also not be possible to print out an updated hardcopy electoral register. In the view of the Ministry, the rules for receiving the ambulatory votes after the advance voting period should be the same, and the proposal that these votes are received in envelopes on all of the days is maintained.

Skien Municipality and *Hol Municipality* stated that the Ministry should reconsider whether a separate cross-off ballot paper should be used for the 2021 election. The working group asked the Ministry to assess whether a separate cross-off ballot paper can be used for making it easier to conduct ambulatory voting. In the consultation paper, the Ministry noted that the consideration of voters who vote from home also being given equal opportunity to cast a preferential vote would suggest that this proposal should not be followed up any further. It would also involve introducing a new type of ballot paper and a new routine for the conducting ambulatory voting, and the Ministry did not consider this to be expedient. The time saved from using this type of ballot paper would most probably also be limited. Based on this, the Ministry will not propose that this type of ballot paper be used for the parliamentary election this year.

The Election Act has rules for assistance in connection with advance voting and voting on election day. These rules will also apply for voters who are ordered into isolation and who require assistance when casting their vote. Assistance must be provided in accordance with the infection control rules and recommendations in the infection control guide. Based on this, the Ministry does not consider there to be a need to formulate specific rules regarding assistance for voters with disabilities who have been ordered into isolation due to Covid-19.

6.4 Voting for voters who are in quarantine due to Covid-19

6.4.1 Applicable law

The Election Act contains no specific provisions relating to voting for voters who are in quarantine due to Covid-19. See section 6.3.1 for rules on where it is possible to cast a vote.

6.4.2 The proposal in the consultation paper

In its report, the Working Group on Infection Control and Elections noted that voters who are in quarantine can leave their residence as long as the necessary distancing is maintained. The

working group recommended that voters who are in quarantine should wait until they have recovered before they vote.

Being in quarantine does not legally prevent someone from being able to go out and vote. However, people who are in quarantine must maintain their distance from others, which can be difficult at a polling station where many other people will also be voting at the same time. The working group therefore recommended that voters who are in quarantine should not use the normal polling stations. Firstly, people in quarantine having to vote at separate locations would assure other voters that they will not be exposed to infection when voting. Secondly, this would make it easier for the municipalities to focus their infection control measures and protect election workers.

The working group was of the view that voters in quarantine must vote at adapted polling stations where it is possible to have additional infection control measures and where no other voters are present. The following solutions were outlined in the report for voters who are in quarantine:

- They can vote at a protected and suitable location outside of an ordinary polling station.
- They can vote while sitting in their car, for example, in a parking lot.
- They can vote at separate premises or mobile polling stations such as an “election bus” or “election boat”.
- They can vote from home.

The Ministry emphasised that voters who are in quarantine also have the right to vote. This applies both to voters who are in infection quarantine, and those who are in entry quarantine pursuant to the Covid-19 Regulations. They must be able to vote without risking incurring penalties for violating quarantine by, for example, not being able to maintain sufficient distancing from others. Conversely, other voters and election workers must not be exposed to the risk of infection when quarantined voters are voting. The Ministry therefore proposed that specific rules be established for how voters in quarantine shall vote, including both if they vote in advance or if they vote on election day.

The Ministry proposed that voters in quarantine shall not vote at ordinary polling stations and that they have to vote at locations decided by the electoral committee. This voting must take place at a *suitable* location, i.e. at a location where it is possible to vote in a manner that is adequate in terms of infection control, cf. the solutions outlined by the working group. The Ministry emphasised that even though the municipalities are obligated to offer quarantined voters a means of voting, this does not have to be the equivalent of what is offered to voters who vote at ordinary polling stations. For example, it may be appropriate to reduce the opening hours at polling places for voters who are in quarantine.

There may be voters in quarantine who are not able to vote at locations stipulated by the electoral committee. For example, this may apply to voters in quarantine who rely on public transport. In order for these voters to also be able to vote, the Ministry proposes that they should be able to vote at their place of residence (ambulatory voting).

Quarantined voters who satisfy the conditions for voting at their place of residence must submit an application for this to the municipality. This deadline should be set at a late enough stage to give voters who have to vote in this manner the opportunity to vote. At the same time, the

deadline cannot be set at such a late stage that municipalities are unable to receive the votes. The Ministry therefore proposed that the final opportunity to apply for advance voting should be 10am on the Friday before election day.

The Ministry also proposed that votes can also be received at the locations where voters in quarantine are residing after the advance voting period, i.e. the Saturday and Sunday before election day and on election day. This will only be possible for voters who are included in the electoral register in the municipality. The Ministry proposes that the deadline for applying to vote on these days should be 10am on the Friday before election day.

The Ministry also proposed that votes received at the location where the voter is residing after the end of the advance voting period, i.e. on the Saturday and Sunday before election day and on election day, must be cast in a ballot paper envelope. It is not possible to place a cross in the electoral register after the advance voting period has ended and before the polls open. The Ministry considers it appropriate to have the same rules for receiving ambulatory votes after the advance voting period has ended. These votes shall be considered as polling day votes.

The same changes should apply for the Sami parliamentary election, and the Ministry will propose the necessary amendments to the Regulations relating to elections to the Sami Parliament to ensure that this occurs.

6.4.3 The views of the consultative bodies

Bærum Municipality, Fredrikstad Municipality, Hol Municipality, Hå Municipality, Lillestrøm Municipality, Sarpsborg Municipality, Senja Municipality, Skien Municipality, Stavanger Municipality, Trondheim Municipality, KS and the FHI supported the proposal.

Bergen Municipality noted that the proposed statutory provision should specify that voters who are in quarantine should, if possible, wait until the quarantine period is over before voting.

Lillestrøm Municipality asked the Ministry to clarify the options for voting from home for voters registered as residents in other municipalities who are either in quarantine or isolation.

The City of Oslo noted that the draft bill only states that ambulatory voting after the advance voting period only applies to voters who are ordered into isolation, while in the consultation paper, the Ministry emphasised that voters in quarantine who are unable to access a polling station without using public transport shall also have the right to apply for ambulatory voting. If the provision shall also apply to voters who are in quarantine, this should be specified in the wording of the Act. *Vefsn Municipality* questioned why votes had to be cast in ballot paper envelopes on the Saturday before election day. The Municipality considered such a manual routine to be unnecessary when this could be solved by using EVA. In the consultation response, the Municipality wrote that the advance voting period must either be extended or election proceedings expedited in EVA.

6.4.4 The Ministry's assessment

Most of the consultative bodies that provided statements supported the proposal for specific rules on how voters who are ordered into quarantine due to Covid-19 shall be able to vote. The

Ministry therefore maintains the proposal for separate rules for where voters who are in quarantine can vote in advance and vote on election day.

Lillestrøm Municipality asked the Ministry to clarify the home voting options of voters who are registered as residents of other municipalities and who are in quarantine. The Ministry proposes that voters who are ordered into quarantine due to Covid-19 shall be able to vote in advance in all municipalities in accordance with the rules that have been proposed for voters who are in quarantine, cf. the proposed provision in Section 8-3 c. If they cannot vote at these locations, for example, because they are unable to travel to the advance voting locations without using public transport, they can apply to vote at their place of residence. The right to vote on the Saturday and Sunday before election day and on election day will only apply to quarantined voters who vote in the municipality in which they are included in the electoral register, cf. the proposed provision in Section 9-3 c.

Bergen Municipality stated that the proposed statutory provision should specify that voters who are in quarantine should, if possible, wait until the quarantine period is over before voting. The Ministry agrees that it is important that voters are informed to wait until the quarantine period is over before voting when this is possible. However, the Ministry finds no reason to legislate this.

As mentioned in section 6.3.4, the Election Act contains rules regarding assistance in connection with advance voting and voting on election day. These rules will also apply for voters who are ordered into quarantine and who require assistance when voting, both when the vote is cast at a special polling station or when it is cast from home. Assistance must be provided in accordance with the infection control rules and recommendations in the infection control guide. Based on this, the Ministry does not consider there to be a need to formulate specific rules regarding assistance for voters with disabilities who have been ordered into quarantine due to Covid-19.

6.5 The number of returning officers for ambulatory voting

6.5.1 Applicable law

Section 8-1, subsection 5 of the Election Act sets the requirement that, during advance voting in Norway, there must be no fewer than two returning officers present when receiving advance votes from 10 August. One returning officer is sufficient for advance voting on Svalbard and Jan Mayen and when receiving advance votes from 1 July until 10 August (so-called early votes). The provision in Section 8-1 of the Election Act applies correspondingly to the Sami parliamentary election, cf. Section 43, subsection 1 of the Regulations relating to elections to the Sami Parliament.

Section 24 a, subsection 4 of the Election Regulations has special rules for receiving votes during the period from 1 July until 9 August. The voter must not place the ballot paper in the ballot box. The voter must instead place this in a ballot paper envelope after it has been stamped. The returning officer must then place the ballot paper envelope, along with the polling card, in

a cover envelope. The returning officer has to sign the polling card and write the time and date when the vote was cast. Finally, the voter places the cover envelope in a ballot box.

Section 4-2 of the Election Act states that if voting is to take place at multiple locations in the municipality, a polling committee with no fewer than three members shall administer voting at each location. Polling committees appointed in accordance with this provision will also function in this capacity in connection with voting for the Sami parliamentary election, cf. Section 17, subsection 2 of the Regulations relating to elections to the Sami Parliament. It is currently a requirement that two returning officers must be present when votes are cast outside of the polling station, cf. Section 9-6 of the Election Act. It is also a requirement for Sami parliamentary elections that two returning officers are present when voting directly outside the polling station, cf. Section 52 of the Regulations relating to elections to the Sami Parliament.

6.5.2 The proposal in the consultation paper

In its report, the working group proposed that the Ministry considers whether the municipalities should be permitted to decide that ambulatory votes can be received by only one returning officer during a period that is limited to the final weekend before election day and the election day. It was the view of the working group that this would enable the municipality to receive more votes. The working group recommended that, when there is only one returning officer present, the voter must not place the ballot paper in the ballot box, but that the vote must be received in accordance with the same rules that apply for votes that are received during the earliest voting period, cf. Section 24 a of the Election Regulations. The working group noted that the ability to receive votes will not necessarily save time for the municipality, and that the time used will be shifted from receiving votes to counting votes. The working group also noted that it may be more difficult to recruit returning officers to receive votes from isolated voters.

In the consultation paper, the Ministry noted that increased ambulatory voting would be difficult for the municipalities to manage. This is particularly the case if there are local infection outbreaks and many voters have to be placed into isolation on the eve of election day. Each municipality must have contingency plans in connection with this work. In the event of a significant local infection outbreak, the Ministry assumes that the municipalities will be aware of local infection outbreaks for a certain period of time prior to the test results being received and will have the opportunity to plan accordingly. However, a situation may arise involving many voters being isolated at the same time. In order for the municipalities to receive votes from all voters who wish to vote, the Ministry proposed in the consultation paper that the electoral committee shall have the authority to decide that, on the final weekend before election day and on election day, these votes can be received with one returning officer being present. The condition for exercising this authority is that it is considered necessary for the voters being able to vote. The reason for it being considered necessary that the votes are received by one returning officer must be linked to a local disease outbreak and not to resource-related challenges caused by other factors.

In the consultation paper, the Ministry wrote that this amendment should also apply for the Sami parliamentary election.

6.5.3 The views of the consultative bodies

The majority of the consultative bodies that provided statements to the proposal were supportive of the proposal. Three consultative bodies had objections to the Ministry's proposal.

Vefsn Municipality stated that it was not applicable for the municipality to send one returning officer to receive votes at the homes of voters. The municipality was of the view that it was more important to ensure that the Municipality is granted an exemption from the Working Environment Act for more work to be performed during this period. *Hå Municipality* was of the view that the present legal requirement for having two returning officers must remain standard practice and that there should be no deviation from this principle. The Municipality noted that two people provided assurance for election workers, and perhaps particularly in such an abnormal situation. A *private individual (who did not provide his/her name)* was of the opinion that the proposal reduces security and could result in more opportunities for committing electoral fraud and thus diminish the legitimacy of the election result.

Bærum Municipality and the *City of Oslo* also stated that it was not applicable for them to send one returning officer to receive votes, however still supported the Ministry's proposal. *Asker Municipality* also initially had plans to use two returning officers, but noted that major outbreaks could result in capacity-related challenges and was of the view that it may be appropriate and necessary to use one returning officer. The Municipality also stated that the challenge associated with the proposal is that the routine involving one returning officer receiving votes in cover envelopes would result in additional work in connection with the preparation of votes prior to counting. *Bergen Municipality* supported the proposal, but was of the opinion that deviating from the requirement for two returning officers should be restricted to the final weekend before election day and to election day.

6.5.4 The Ministry's assessment

The Ministry would emphasise that the proposal entails that the municipalities must, insofar as this is possible, comply with current law whereby two returning officers have to be present. The condition for exercising the right to use one returning officer is that this is considered necessary for voters being able to vote. It is the electoral committee in the municipality that must determine whether this condition is satisfied. For example, the provision may be applicable in a municipality with a large geographical area, where a local infection outbreak on the eve of election day would mean that many voters who live long distances from one other would have to isolate and apply to cast their votes.

The Ministry would also note that advance voting is presently conducted from 1 July (so-called early voting), and the Election Act does not set any requirement for two returning officers in connection with this. These votes are received in ballot paper envelopes and are later verified centrally in the municipality by two election workers. The municipalities are therefore very familiar with the proposed routine for ambulatory voting, in which one returning officer receives the vote in a cover envelope.

The intention of the proposal is to give municipalities that experience a serious infection outbreak on the eve of election day a better chance of being able to receive votes from all voters who apply to vote in this manner. The provision must only be applied when necessary. As a

general rule, ambulatory votes shall be received by two returning officers and the provision will only be applicable in municipalities that actually have a need to use it.

The Ministry maintains the proposal from the consultation paper and proposes that the electoral committee is given the authority to decide that the municipality can use one returning officer to receive votes from voters who are in isolation on the final weekend before election day and on election day.

The same changes should apply for the Sami parliamentary election, and the Ministry will propose the necessary amendments to the Regulations relating to elections to the Sami Parliament to ensure that this occurs.

6.6 The right of the electoral committee to establish extra polling stations for a polling district in the event of a local outbreak

6.6.1 Applicable law

There shall be only one polling station for each polling district for voting on election day. Following delegation of authority, the municipal council or electoral committee shall decide how many polling districts the municipality shall be divided into, cf. Section 9-3, subsection 1 of the Election Act. The central cadastral authority (the Norwegian Mapping Authority) shall be informed of changes in the division into polling districts by 31 March in the election year. The electoral committee shall decide where and when voting shall take place, cf. subsection 2.

If voting is to take place at multiple locations in the municipality, a polling committee with no fewer than three members shall administer voting at each location, cf. Section 4-2 of the Election Act.

In municipalities with 30 or more people included in the Sami Parliament's electoral register, voters can vote at the Sami parliamentary election at the same polling station and at the same time as for the parliamentary election, cf. Section 47, subsection 1 of the Regulations relating to elections to the Sami Parliament. In municipalities with fewer than 30 people included in the electoral register, one is only permitted to vote in advance, cf. subsection 2.

6.6.2 The proposal in the consultation paper

In its report, the Working Group on Infection Control and Elections noted that, in the event of a local infection outbreak, there may be a need to establish multiple polling stations in a polling district in order to spread out voters. For example, the working group stated that it could be possible to set up tents in large open areas. By making it possible to establish extra polling stations, the municipalities would have greater flexibility to manage potential local infection outbreaks.

In the consultation paper, the Ministry made reference to the fact that, on election day, most voters vote at the polling district in which they are included in the electoral register. Pursuant to the Election Act, there shall be only one polling station for each polling district. At every

election there are queues at several polling stations. This is something that is generally unfortunate, because it can result in some voters not voting because they cannot be bothered or do not want to stand in line. Queues will also make it difficult for voters to maintain their distance from other voters. In a situation involving a local Covid-19 outbreak, it will therefore be especially important to avoid queues in and outside of the polling stations. Dividing the municipality into smaller polling districts is one measure that may assist in reducing queues. However, for reasons relating to registration in the electoral register, any decision to divide the municipality into polling districts must be made no later than 31 March in the election year. It will therefore not be possible to change the division of the polling districts after 31 March due to a local Covid-19 outbreak.

In the consultation paper, the Ministry stated that it agreed with the working group that there may be a need for multiple polling stations in the same polling district in the event of a local infection outbreak. It was therefore proposed that the municipalities shall be able to establish one or more extra polling stations in a polling district if there is a local Covid-19 outbreak. This may assist in spreading voters out more effectively and thereby reduce queues inside and outside the polling station. The Ministry proposed that a decision to establish an extra polling station in the polling district must be made by the electoral committee itself.

The requirement in Section 9-3, subsection 2, second sentence of the Election Act that voting shall take place in suitable and accessible premises also applies to extra polling stations that are established in the polling district. Other premises may be used if there are *special grounds* for this, cf. fourth sentence. In a situation involving a local Covid-19 outbreak, the Ministry assumes that premises that are not suitable or available can be used if this is necessary for being able to implement the necessary infection control measures. This must be specifically assessed in each instance. The Ministry made reference to the fact that this is not a general right to waive the requirements for suitability and accessibility. The municipalities must use premises that meet these requirements if it is possible to find such premises.

Establishing extra polling stations in the event of a local Covid-19 outbreak will also be appropriate in municipalities where voters are reliant on public transport to get to the polling station. An infection outbreak may result in people being advised to avoid public transport and extra polling stations could reduce the need to use public transport to access the polling station.

In the consultation paper, the Ministry stated that it is necessary to establish specific routines for how voting shall take place at an extra polling station in the polling district. If the municipality has used electronic crossing-off of the electoral register on election day, voters who vote at an extra polling station must place the ballot paper directly in the ballot box unless the returning officer at the extra polling station cannot place a cross beside the voter's name in the electronic electoral register. If the returning officer cannot place a cross beside the voter's name in the electronic electoral register or if the municipality uses a hardcopy electoral register, the voter must not place the ballot paper in the ballot box where voting takes place at an extra polling station in the polling district. The vote must then be cast in a ballot paper envelope that is placed in a cover envelope and thereafter placed in the ballot box.

The Ministry noted that there is a need to clarify how the counting of ballots cast at an extra polling station can take place. The electoral committee shall decide how counting shall take

place, cf. Section 10-4, subsection 1 of the Election Act. The preliminary counting of the ballot papers can either take place at the individual polling stations, collectively for several polling stations at one polling station or at the offices of the electoral committee. If counting takes place at the offices of the electoral committee, this can either occur per polling district or for the municipality as a whole. Counting of the ballot papers by polling district can only take place if the electoral register in the polling district contains no fewer than 100 names. These rules are adapted to a situation in which there is only one polling place or polling station per polling district and the rules are therefore not intended to regulate a situation in which one or more extra polling stations are established in the polling district.

The Ministry proposed that there shall be no separate counting of ballot papers cast at an extra polling station. The principal reason for this proposal is that there may be very few people who vote at these polling stations. The principle of a secret ballot could therefore be threatened if the ballot papers are able to be counted separately for extra polling stations. Ballot papers that are placed directly in the ballot box at an extra polling station must be counted in the manner the electoral committee has stipulated that the ballot papers in the polling district shall be counted. The proposal entails that the ballot papers must either be counted by the polling committee at the ordinary polling station in the polling district together with the other ballot papers cast in the polling district, or must be counted by polling station or collectively at the offices of the electoral committee. The normal rules for counting such votes shall apply for ballot papers that are cast in envelopes at an extra polling station, cf. Section 10-6, subsection 2, second and third sentences of the Election Act.

Voting at the Sami parliamentary election takes place at the same polling stations as for the parliamentary election. It will therefore also be possible to vote at Sami parliamentary elections at these polling stations.

6.6.3 The views of the consultative bodies

All of the consultative bodies that provided statements regarding this matter supported the municipalities being able to establish multiple polling stations in the same polling district on election day. This included *Asker Municipality*, *Bodø Municipality*, *Bærum Municipality*, *Fredrikstad Municipality*, *Hol Municipality*, *Lillestrøm Municipality*, *Oslo Municipality*, *Sarpsborg Municipality*, *Senja Municipality*, *Stavanger Municipality*, *Trondheim Municipality*, *Vefsn Municipality* and *KS*. Some of the consultative bodies had remarks to the Ministry's proposal that there cannot be separate counting of ballot papers cast at an extra polling station and to the proviso that there must be a local Covid-19 outbreak.

The Council for Persons with Disabilities, Council for Senior Citizens and Youth Advisory Board in Nordland emphasised that it was important to clarify that no general right is granted to waive the requirement that a polling station has to be suitable and universally designed. These consultative bodies stated that any deficiencies in universal design constituted fundamental discrimination of people with disabilities and were of the view that requirements must be set for compensatory measures if such premises are used by the municipalities.

Vefsn Municipality was of the view that the municipalities themselves must be able to conduct a separate count of ballot papers per polling station and that there should be an option for doing

this in EVA. The reason given was that this will simplify the counting process for the Municipality.

Nes Municipality was of the opinion that the proviso that there has to be a local infection outbreak must be removed. In its consultation response, the Municipality wrote that the municipalities should also be able to have multiple polling stations in one polling district if there is no local outbreak of Covid-19 on election day (13 September). The Municipality considered it appropriate to allow municipalities to assess the need for spreading voters among multiple polling stations in a polling district and to not bind the municipalities to a requirement that there has to be an acute infection situation. The Municipality agreed with *Vefsn Municipality* that the municipalities themselves must be permitted to assess whether votes should be counted at such additional polling stations. The Municipality stressed that, due to security considerations, they should know how many votes are in the ballot box before these are transported.

Faglig forum for formannskapssekretærer (FFF) supported the option of establishing extra polling stations in a polling district, however was also of the view that the Ministry's proviso that there must be a local infection outbreak has to be removed. *FFF* considered it appropriate that the municipalities themselves must assess the need for spreading voters among multiple polling stations in a polling district and did not want the municipalities to be bound by any requirement that there has to be an acute infection situation. *FFF* noted that the polling station has to be established and staffed and that the municipality needs to inform the voters of this. *FFF* also disagreed with the Ministry's proposal that these votes cannot be counted separately, and stated the following:

The *FFF* board also believes that the municipalities themselves must be permitted to assess whether votes should be counted at such additional polling stations. Due to security considerations, one should be aware of the number of votes that have been cast at the polling station before these are transported. We therefore disagree with the proposal to not permit the municipalities to count votes at extra polling stations. If so few votes have been cast at an extra polling station that counting would violate the principle of a secret ballot, the municipalities themselves are able to decide that these votes shall not be counted.

Bodø Municipality stated that if it becomes applicable to establish extra polling stations in a polling district, the deadline for making changes to the basic data in the EVA electronic election administration system must be adjusted accordingly.

6.6.4 The Ministry's assessment

The Ministry refers to the consultation response from the *consultative bodies in Nordland*. The consultation paper specified that the proposal was *not* a general right to waive the requirements for suitability and accessibility. The Ministry would emphasise that the requirement that voting must take place at suitable and accessible premises, cf. Section 9-3, subsection 2 of the Election Act, also applies when establishing additional polling stations. The requirement in Section 30 of the Election Regulations, cf. Section 26, that, when facilitating voting in the polling stations, the emphasis should be on good accessibility for all voters, shall also apply.

Two consultative bodies (*Faglig forum for formannskapssekretærer* and *Nes Municipality*) provided statements regarding the proviso that there has to be a local Covid-19 outbreak. They

were of the view that it would be more appropriate to allow the municipalities themselves to assess the need to spread voters among multiple polling stations, irrespective of local infection outbreaks. The Ministry is of the opinion that, as a starting point, the municipalities must plan in accordance with the current rules that there must be one polling station in each polling district. The municipalities are responsible for planning for adequate capacity during voting, and it will be a simple process to inform voters that, as per usual, there is one polling station in the voters' polling district. If a municipality considers it expedient to increase the number of polling stations in the municipality irrespective of the infection situation, they should adopt changes to the polling districts in the municipality by the deadline of 31 March in the election year, cf. Section 9-3, subsection 1 of the Election Act. The proposal in the proposition is an exception to be used if, due to increased infections, the municipality has an unforeseen need to spread voters in one or more polling districts among multiple polling stations. The Ministry therefore proposes maintaining the requirement that extra polling stations can only be established if there is a local Covid-19 outbreak in the municipality. The electoral committee itself must decide whether there is a local Covid-19 outbreak in the municipality.

Three consultative bodies (*Faglig forum for formannskapssekretærer, Nes Municipality and Vefsn Municipality*) did not support the part of the proposal that the votes cast at extra polling stations cannot be counted separately. The Ministry would emphasise that, pursuant to Section 34, subsection 1 of the Election Regulations, the electoral committee has a responsibility for establishing adequate routines for the storage and transport of election materials during all phases of the election process. The Ministry notes that security considerations can be safeguarded by conducting a count of the total number of ballot papers received at the extra polling station (ballot box counting), before the votes are transported either to the ordinary polling station in the polling district, or to the electoral committee. This is in compliance with the routine for municipalities that currently count the ballot papers for all of the polling districts centrally in the municipality. The Ministry also notes that an extra polling station will be part of the ordinary polling district in the EVA election administration system. This means that it is not possible to check the ballot papers received at an extra polling station in relation to the crosses in the electoral register. The ballot papers must therefore be counted as part of the counting of ballot papers from the ordinary polling station in the polling district. The electoral committee will keep a record of the election proceedings in the polling district as a whole.

The Ministry proposes maintaining the proposal in the consultation paper and thus proposes a new provision in the Election Act which grants the electoral committee the right to establish one or more extra polling stations for one or more polling districts in the municipality.

The Ministry emphasises that if the electoral committee decides to establish an extra polling station, the municipal council or electoral committee following delegation, must appoint a polling committee that will administer the voting at this premises. Pursuant to Section 10-7, subsection 1 of the Election Act, the polling committee shall keep records relating to the conduct of election proceedings. Such records shall be kept by filling out an election protocol in the EVA election administration system. The Ministry assumes that the polling committee for the ordinary polling station in a polling district will be responsible for keeping the election protocol.

6.7 The date when the counting of advance votes can commence

6.7.1 Applicable law

6.7.1.1 Parliamentary elections

Section 10-4, subsection 1 of the Election Act states that the electoral committee is responsible for the counting of ballot papers and decides who counts the votes and the manner in which this takes place. However, Section 10-4 of the Election Act contains certain rules for counting and, among other things, sets the requirement that ballot papers must be counted twice, i.e. a preliminary count and a final count, cf. Sections 10-5 and 10-6 of the Election Act. In the preliminary count, the ballot papers must be counted manually, cf. section 37 a of the Election Regulations.

Counting of advance votes shall commence no later than four hours before the voting has ended at all polling stations in the municipality. This shall only be done if the counting can take place without violating the principle of a secret ballot. If this is not possible, the counting shall start as soon as all the advance votes have been approved. This provision has been interpreted such that counting is not permitted to start before election day, however this does not prevent the municipalities from making preparations for the count. For example, ballot papers can be sorted and the ballot paper envelopes opened.

Preliminary counting of polling station ballot papers shall commence as soon as possible after polling station voting has concluded.

6.7.1.2 The Sami parliamentary election

Section 62 of the Regulations relating to elections to the Sami Parliament contains rules regarding responsibility for counting at Sami parliamentary elections. The Sami electoral committee in the municipality is responsible for the preliminary counting of both advance votes and polling station votes in municipalities with 30 or more people included in the electoral register. In municipalities with fewer than 30 people included in the electoral register, the counting electoral committee in the constituency is responsible for the preliminary counting. The counting electoral committee is also responsible for the final count. Section 64 of the Regulations sets the requirement that the ballot papers must be counted twice, i.e. one preliminary and one final count.

The preliminary count of advance votes shall commence no later than four hours before voting has concluded at all polling stations in the constituency, cf. Section 65, subsection 1 of the Regulations relating to elections to the Sami Parliament. This shall only occur if the counting can take place without violating the principle of a secret ballot. If this is not possible, counting shall commence as soon as all advance votes have been received at the counting location. The provision must be interpreted in the same manner as the corresponding rule in the Election Act such that counting is not permitted to commence until election day.

6.7.2 The proposal in the consultation paper

In the consultation paper, the Ministry noted that the Election Act Commission proposed that the counting of advance votes should be able to commence on the Sunday before election day.

Based on current practices, larger municipalities in particular will prepare for counting on the Sunday. Among other things, this involves opening ballot paper envelopes and sorting ballot papers.

Measures to limit the spread of infection may result in counting taking longer than normal, partly as a result of election workers having to maintain greater distances from each other or that the counting may, for example, have to be organised in smaller groups. The Covid-19 pandemic may also result in an increase in the number of advance votes, particularly votes cast in envelopes.

Based on this, the Ministry proposed that the counting of advance votes be able to commence on the Sunday before election day. It is important that requirements for secrecy are observed and counting must be organised in a manner which ensures that as few people as possible are aware of the counting results. The condition that counting may only commence if this can take place without violating the principle of a secret ballot shall still apply.

The Ministry proposed that a corresponding temporary amendment be made to the Regulations relating to elections to the Sami Parliament.

6.7.3 The views of the consultative bodies

All of the consultative bodies (with the exception of one private individual) who provided statements regarding the proposal supported the Ministry's proposal that counting of advance votes can commence on the Sunday before election day.

Several municipalities stated that they expect the counting of advance votes to be more time-consuming than in previous elections, both due to the expected increase in the number of advance votes and measures to safeguard infection control concerns.

Bergen Municipality stated the following:

The proposal that the preliminary counting of advance votes can start on the Sunday before election day is supported as long as the requirement for a secret ballot can be safeguarded. With the requirement for manual preliminary counting of advance votes, expected increase in the number of advance votes and the introduction of infection control measures, it is expected that the time it takes to count the advance votes will increase relatively significantly. If the counting of advance votes can commence on the Sunday, time can be regained in order for results to be ready at approximately the same time as for other elections.

Lillestrøm Municipality expected that the Ministry's proposal would ease the work of completing the count by the deadline. *Trondheim Municipality* highlighted the proposal as being of particular importance and stated that this will provide the municipalities with greater freedom of action in connection with the election work. *A private individual (who did not disclose his/her name)* was of the view that the proposal could lead to early results from counting potentially influencing and providing incentives for electoral fraud, and that the proposal extends the period of time in which it is possible to commit electoral fraud.

6.7.4 The Ministry's assessment

The Ministry agrees with the municipalities that an increased number of advance votes can be expected at the 2021 election. The municipalities will also have to organise counting differently to what they normally do because they will have to implement infection control measures that they do not normally follow during the counting process. In its report, the Election Act Commission also noted that it may also be an advantage for the organisation of the election process if the counting of advance votes does not commence too close to the start of election day. This may be especially important when conducting an election during a pandemic.

In section 5.1, the Ministry discusses the risk of a potential delay in determining the result of the 2021 parliamentary election. The proposal that counting of advance votes can commence one day earlier than normal will be a measure that may alleviate this risk to some extent. The proposal received broad support during the consultation process and several municipalities were of the opinion that it would be beneficial to commence the counting of advance votes one day earlier.

The Ministry therefore proposes a new temporary provision in the Election Act that preliminary counting of ballot papers cast in advance may commence on the Sunday before election day, if this can take place without violating the principle of a secret ballot. The individual electoral committees are responsible for ensuring secrecy during counting on the Sunday. The electoral committee must ensure that ballot papers and results are stored in a secure manner until 9pm on election day and that unauthorised parties do not have access to results from the preliminary count.

The same changes should apply for the Sami parliamentary election, and the Ministry will propose the necessary amendments to the Regulations relating to elections to the Sami Parliament to ensure that this occurs.

6.8 Election proceedings that are adequate in terms of infection control

6.8.1 Applicable law

Section 4-1 of the Infection Control Act stipulates further conditions for national and municipal authorities being authorised to initiate measures to prevent a communicable disease or to prevent the spread of the disease. National authorities have established the Regulations relating to infection control measures etc. in connection with the coronavirus outbreak (COVID-19. Regulations). The purpose of the Regulations is to establish infection control measures to prevent or restrict the spread of SARS CoV-2 among the population and among health personnel, and to ensure that the health and care services are able to maintain sufficient capacity to manage the infection situation while also continuing to provide normal health and care services, cf. Section 1, paragraph one. The Regulations shall also ensure that infection control measures that are implemented by municipalities and central government health authorities are coordinated, cf. Section 1-1 of the Infection Control Act. The Regulations were adopted on 27 March 2020 and have been amended on several occasions since then.

Among other things, the Regulations contain rules for events, including the number of people who can attend an event, requirements for events to be conducted in a manner that is adequate in terms of infection control and requirements for distancing at events etc. Section 13 of the Covid-19 Regulations provides a specific definition of an *event*. The municipalities' conduct of elections does not fall under the current definition of an event in the Regulations.

The Election Act does not presently include any rules that make it possible to order the municipalities to ensure that infection control measures are in place when conducting the parliamentary election. There is also no such provision in the Regulations relating to elections to the Sami Parliament.

6.8.2 The proposal in the consultation paper

In the consultation paper, the Ministry emphasised that the election must be conducted in a manner that is adequate in terms of infection control, and that the general infection control recommendations from the health authorities should also apply for the election process.

Work has commenced on preparing an infection control guide for conducting the election. This will be an important contribution towards ensuring that municipalities and county councils can prepare and ensure that the election is conducted in a manner that adequately complies with infection control measures. The Ministry will ensure that municipalities and county councils receive training and guidance relating to the infection control guide in sufficient time before the election.

However, not all infection control recommendations will be suitable for conducting the election. The Ministry also noted that elections are not considered an "event" pursuant to the Covid-19 Regulations. The Ministry therefore identified a need to be able to issue regulations for certain infection control measures in connection with the conduct of the 2021 parliamentary election. The requirements will focus on the obligation of the municipalities to organise the election process so that voters are able to vote in a manner that is adequate in terms of infection control. The infection control measures that the Ministry may order the municipalities to implement are measures for ensuring that the election can be conducted with sufficient distances between people who are at the polling station and correspond to the provision that applies to distancing requirements at events in Section 13 c of the Covid-19 Regulations. The municipalities may also be ordered to ensure that adequate protective equipment such as masks is used when receiving votes from voters who are in isolation. Depending on the infection situation as the election approaches, this will be important for being able to reassure voters that it is safe to vote.

It is presently unclear as to what the infection situation will be when the election is conducted. In the consultation paper, the Ministry noted that the FHI has concluded that there will be a persistent danger during the next six months of the epidemic getting out of control locally, regionally or nationally. The Ministry has therefore identified a need to establish such a legal basis, instead of establishing the rules now.

In order to determine what measures are necessary and possible in connection with conducting the election, in the consultation paper the Ministry stated that it was necessary to establish a legal basis in the Election Act. This will make it easier to comply with the Ministry's overarching responsibility for the election process. The Ministry proposed that such a legal basis be temporarily included in the Election Act before the 2021 election. The formulation of any regulations will take place in consultation with the health authorities.

Since the Sami parliamentary election will take place at the same premises and at the same locations as the parliamentary election, the infection control measures will also include the Sami parliamentary election.

6.8.3 The views of the consultative bodies

Bodø Municipality, Bærum Municipality, Hol Municipality, Lillestrøm Municipality, Senja Municipality, Stavanger Municipality, Trondheim Municipality, Nordland County Council and the FHI supported the Ministry's proposal to introduce a legal basis in the Election Act to issue regulations to ensure that the 2021 parliamentary election is conducted in a manner that is adequate in terms of infection control.

Bergen Municipality noted that it is important that regulations relating to election proceedings that are adequate in terms of infection control are adopted in sufficient time before the election out of consideration to the adaptations and logistics at the polling stations, staffing and purchases of necessary personal protective equipment. The same applies to the infection control guide for the election process.

KS, Asker Municipality and Fredrikstad Municipality questioned whether it was necessary to introduce such a legal basis in the Election Act. *Hå Municipality and Sarpsborg Municipality* did not consider such a legal basis to be necessary. They referred to the fact that the Infection Control Act currently gives the municipalities the responsibility and authority to initiate necessary infection control measures, including in connection with the election process. In addition, an infection control guide for the election process must be prepared that provides support to the municipalities. *KS* was of the view that the Ministry should provide stronger grounds than what were stated in the consultation paper for there actually being a need for such regulatory authority. If considered necessary by the Ministry, it was important in *KS'* view that the regulations be prepared in discussions with the municipal sector before draft regulations are submitted for consultation. The draft bill should state that the regulations must be prepared in discussions with the municipal sector.

In its consultation statement, *Vefsn Municipality* referred to the fact that it is not necessary to ask the municipalities to ensure that hygiene measures are in place for the election. The Municipality also noted that it is positive that it is made clear that the election process is not considered an event pursuant to the Covid-19 Regulations.

6.8.4 The Ministry's assessment

The Ministry notes that several consultative bodies support the proposal. Only some of the consultative bodies stated that such regulatory authority was not necessary and some questioned

the need for such a legal basis. *KS* stated that the Ministry should provide stronger grounds for why this is required. Despite the municipalities having the responsibility and authority to establish necessary infection control measures, the Ministry is of the view that there are good reasons in favour of regulatory authority being required to order the municipalities to implement measures that will ensure that the parliamentary and Sami parliamentary elections are conducted in a manner that is adequate in terms of infection control. Such regulatory authority will provide a basis for establishing infection control measures for conducting the election in all of the municipalities. It may also provide greater predictability and assurance for voters. It will also make it easier for the Ministry to fulfil its overall responsibility for the election process, including that the election is conducted in a manner that is adequate in terms of infection control. On this basis, the Ministry proposes to maintain the proposal for such regulatory authority in the consultation paper. If the Ministry concludes that such regulations are required, *KS* stated in their consultation statement that it is important that these are established in consultation with the municipal sector. *Bergen Municipality* noted that the regulations must be laid down in sufficient time before the election. The Ministry will take this into consideration.

6.9 The relationship between infection control measures and the rules in the Constitution relating to the date of the parliamentary election and right to vote

6.9.1 Applicable law

The purpose of the Infection Control Act is to protect the population from communicable diseases by preventing their occurrence and hindering them from spreading among the population, and by preventing such diseases from being brought into Norway or carried out of Norway to other countries, cf. Section 1-1. The Act also has the purpose of ensuring that the health authorities and other authorities implement the measures necessary to control communicable diseases and coordinate their efforts to control such diseases, and safeguard the legal rights of individuals.

There will often be overlapping trade-offs between the consideration of the individual and society when implementing measures to combat communicable diseases. The Covid-19 outbreak has been declared a serious outbreak of a communicable disease that is hazardous to public health, cf. Section 1-3, subsection 4 of the Infection Control Act. This means that there is an outbreak or risk of an outbreak which requires particularly comprehensive measures. Section 1-5 of the Infection Control Act stipulates basic requirements for infection control measures. The measures must be based on clear medical grounds, be necessary on account of infection prevention and appear appropriate following an overall assessment. Such measures must therefore be proportionate. The Infection Control Act permits invasive measures being adopted to prevent the occurrence of a communicable disease that is hazardous to public health and to prevent infection.

The Infection Control Act provides statutory authority for the King to issue regulations for, among other things, quarantine provisions (Section 4-3) and isolation and other restrictions on

freedom of movement (Section 4-3a). Section 4-1, paragraph one and two of the Infection Control Act grants the municipal council and Norwegian Directorate of Health the authority to adopt invasive measures when this is necessary for preventing or stopping infection. The provision grants the relevant bodies the authority to implement far-reaching restrictions, including closing businesses, stopping communications or restricting freedom of movement.

6.9.2 The proposal in the consultation paper

It states in section 3.3.2 of the consultation paper that it is very unlikely at the present stage that such strict infection control measures will have to be implemented which will result in the election not being able to be conducted. Reference is made to the working group's opinion that the election can be conducted, even with invasive infection control measures in the community. The temporary amendments to the Election Act are precisely intended to enable municipalities to conduct the election in a proper manner, even during a local infection outbreak.

If there is a higher level of infection, it may be appropriate to introduce more invasive infection control measures than those that have been introduced thus far. Such measures could impact on the constitutional right of individual citizens to vote and that the parliamentary election is conducted in accordance with what is stipulated in the Constitution, cf. Articles 50 and 54 of the Constitution. The Ministry was therefore of the view that there was a need to clarify what bodies will have the authority to introduce these types of measures if such a situation arises.

In the view of the Ministry, a scenario in which one or more municipalities decide to introduce infection control measures that will prevent the election being conducted and also possibly arriving at different conclusions, would be extremely unfortunate and have serious consequences for the legitimacy of the election.

The Ministry was therefore of the opinion that there is a need for a temporary restriction on the municipalities' authority to implement measures during the actual election that will make it impossible to conduct the election. The Ministry proposed that this be achieved by inserting a legal basis in the Election Act which grants the King the right to lay down such restrictions in regulations. In the consultation paper, the Ministry gave notice that proposals for the formulation of such a provision would be presented after the consultation process.

6.9.3 The views of the consultative bodies

None of the consultative bodies provided any direct remarks to the proposal to include a legal basis in the Election Act to grant the King the authority to restrict the authority of the municipal council pursuant to Section 4-1, paragraph one of the Infection Control Act to adopt infection control measures that may result in the 2021 parliamentary election not being able to be conducted. However, as mentioned above, several consultative bodies, including *Hol Municipality*, *Stavanger Municipality*, *Trondheim Municipality* and the *FHI*, stated that they support all the draft bills in the consultation paper. *KS* stated the following:

KS finds that the consultation paper clearly describes the trade-offs between necessary infection control concerns and consideration of the provisions in the Constitution relating to the right to vote.

6.9.4 The Ministry's assessment

The Ministry notes that several consultative bodies support the proposal. There were no objections to the proposal during the consultation process.

In the consultation paper, the Ministry proposed including a legal basis in the Election Act which would grant the King the right to issue regulations to restrict the authority of the municipal council pursuant to Section 4-1, paragraph one of the Infection Control Act to adopt infection control measures that prevent the parliamentary election from being conducted. The Ministry is still of the view that the authority of the municipal council pursuant to Section 4-1, paragraph one of the Infection Control Act should be restricted somewhat during the 2021 parliamentary election.

However, following a new assessment, the Ministry has found that it is not appropriate to regulate this by including a legal basis in the Election Act that permits the King to stipulate such restrictions. Firstly, it is unnecessary to go down the path of a regulatory provision. Secondly, the Storting will have the opportunity to consider the material content of the provision by the proposal being presented in the form of an act.

The Ministry therefore proposes to include a provision in the Election Act that the municipal council cannot adopt infection control measures pursuant to Section 4-1, paragraph one of the Infection Control Act which will result in the 2021 parliamentary election not being able to be conducted. In formal terms, the restriction only applies to the parliamentary election and not the Sami parliamentary election. However, as long as it is possible for voters to vote at the parliamentary election, it will also be possible for voters to vote at the Sami parliamentary election because the elections take place at the same location. There is thus no need to establish separate rules in this area for conducting the Sami parliamentary election. The amendment is of no significance to the right to initiate national measures pursuant to Section 4-1, paragraph two of the Infection Control Act. However, during the actual election, it may be necessary to evaluate this provision in relation to the rules governing elections in the Constitution.

7 Other submissions from the consultation process

KS stated that they were satisfied with the Ministry presenting proposals for how the election can be conducted in a situation involving a high infection rate or potential, local infection outbreaks. *KS* emphasised that the municipalities have a major responsibility associated with conducting elections and it is of great importance that there are clear frameworks for how this shall take place in a potential infection situation. The Ministry agrees that it may be difficult for the municipalities to conduct the election during a possible local infection outbreak and emphasises the need for planning and preparation.

Several consultative bodies provided statements regarding the proposed infection control guide for the election process. *Trondheim Municipality* was of the view that such a guide is a prerequisite for the election being able to be adequately conducted throughout the entire country. Among other things, the Municipality stated that there have to be recommendations for how the municipalities can best conduct the voting process at institutions and at the homes of voters.

Nordland County Council was of the view that the information should be sent out as early as possible and that clear information be provided which leaves no room for misunderstanding. *Stavanger Municipality* agreed that clear guidelines are required for how voting must be conducted in a situation where there is a high rate of infection or local infection outbreak. The Municipality stated that it is desirable that the guide also makes recommendations for how the counting of ballot papers can best be carried out, because this is a situation in which the election workers will be sitting together over an extended period and have several common contact surfaces. *Skien Municipality* was of the view that the guide should contain specific recommendations for the cleaning of voting booths. The Municipality made reference to the fact that even though the ballot papers are not considered disease transmitters, there are several other contact surfaces in the voting booth. *Bergen Municipality* was positive about the plan to publish the guide in multiple languages. The Ministry refers to section 4.3, which discusses the importance of an infection control guide for the election process.

A number of consultative bodies emphasised the need for good information and training materials from a central level. *Hå Municipality* stated that the proposed changes will require comprehensive follow-up in the form of information, training and guidance, and that this will be of major importance to them being able to conduct this year's election with a high level of quality and safety. *Trondheim Municipality* was of the view that the proposal that central authorities create information packages which the municipalities can adapt and use for their voters is a good proposal which may contribute to high quality information work throughout the entire country. *Skien Municipality* expected that digital training for election workers would be arranged and that there would be a useful, good and informative tool for this. *Bergen Municipality* also stated that it was desirable for the Norwegian Directorate of Elections to prepare a joint digital programme for infection control training for the many election workers in the municipalities. *Asker Municipality* was of the view that central government authorities should place particular emphasis on providing information to voters about the rules and options associated with casting a vote, particularly if one is in quarantine or isolation, including encouraging voters who travel abroad to cast an advance vote before they depart. *The Elderly Ombudsman* emphasised that it was essential that voters be extra well-informed about where, when and how they can vote. The Ombudsman particularly emphasised the need for this information to reach all voters who do not use digital services. The Ministry agrees with the importance of information and training, and the Norwegian Directorate of Elections will be assigned a key role in effectively facilitating this.

The Council for Persons with Disabilities, Council for Senior Citizens, and Youth Advisory Council in Nordland were of the view that arrangements should be made for blind and partially sighted people and other people with requirements due to disability to apply to vote digitally at the election. The Ministry agrees with the working group that it is neither possible nor appropriate to permit electronic voting due to the pandemic.

A number of municipalities provided statements regarding the financial consequences of conducting an election during a pandemic. *Stavanger Municipality* stated that the increased use of resources will primarily depend on the number of people involved, personal protective equipment and possible extra polling stations for both advance voting and on election day. The Municipality expected the municipalities to be compensated for the increased use of resources. *Hol Municipality* noted that a local outbreak with voters isolating at home will result in an extra high use

of resources and expected that this would be compensated. *Hareid Municipality* wrote that many of the proposals in the consultation paper will have significant financial consequences for municipalities. The Municipality elaborated on this by stating that they will have to restructure the entire organisation of advance voting, which will result in significantly increased costs. The Municipality also noted that more polling stations will require more electoral equipment as well as the required personal protective equipment. The Municipality emphasised that this will entail significant increased costs, particularly for small municipalities with limited election budgets. The Municipality therefore requested that this be covered krone-for-krone by the State to enable equally safe and secure voting to take place across the entire country, irrespective of municipal finances and geographic or demographic differences. *KS* emphasised that the costs of statutory and regulatory amendments that impose new duties on the municipal sector should both be calculated and compensated. *KS* was positive that the working group that is assessing the financial consequences of the Covid-19 situation for the municipal sector will also consider compensation related to infection control during the election process. The Ministry makes reference to section 8 regarding the financial and administrative consequences of the draft bill.

8 Financial and administrative consequences

Conducting the election during the Covid-19 pandemic will be a demanding task and may entail increased costs for the municipalities. Municipalities and county councils must be prepared for local infection outbreaks during the election. This will have administrative consequences in the form of greater resource use in connection with planning and preparedness. There may also be additional expenses that will vary depending on the infection rate. The infection rate will be of major importance to the extra resources required and there may be large variations between municipalities. The infection rate will also be of major importance to the costs the municipalities will incur for personal protective equipment.

Of the specific statutory amendments that have been proposed in this Proposition, the extension of the period in which it is possible for voters to vote from home may involve additional work for the municipalities. If the municipalities need to establish extra polling stations due to the infection rate or a high number of voters in quarantine, this will also result in increased staffing costs. The other proposals do not in themselves entail significant financial and administrative consequences for the municipalities beyond those caused by the pandemic itself.

The working group that shall assess the financial consequences of the Covid-19 situation for the local government sector, will prepare estimates of the financial consequences for the municipalities in connection with conducting the election during the pandemic and issues pertaining to compensation will be considered as part of this work.

9 Remarks to the individual provisions in the draft bill

For the Election Act

For Section 8-1 a

The provision stipulates that the electoral committee may waive the requirement for two returning officers in Section 8-1 of the Election Act when votes are received at health and social welfare institutions, and when receiving ambulatory votes pursuant to Section 8-3 b or Section 8-3 c, subsection 2. The electoral committee may only hand down a decision to waive the requirement when a local Covid-19 outbreak makes this necessary for ensuring that voters are able to vote. For example, if a local Covid-19 outbreak means that the municipality must receive a large number of votes from voters who are in isolation and quarantine and several of the election workers are prevented from going to work due to Covid-19. The electoral committee's authority may not be delegated.

Reference is otherwise made to the general preparatory works in section 6.5.

For Section 8-3 a

The provision entails a codification of the Ministry's interpretation of a polling station being able to consist of multiple rooms. The rooms must therefore be connected. Among other things, the requirement in Section 8-3, subsection 1 of the Election Act that voting shall take place at *suitable* premises, entails that the returning officers must have control of the advance voting process at the polling station. This may place restrictions on the size and design of the polling station and thus the premises that can be used.

Reference is otherwise made to the general preparatory works in section 6.1.

For Section 8-3 b

The provision regulates the ambulatory receiving of advance votes at the 2021 parliamentary election.

As is the case under existing law, *subsection 1* stipulates that voters who, due to illness or disability, cannot cast an advance vote at a polling station, may apply to the electoral committee to vote at their place of residence. The provision also offers voters who, due to Covid-19, have been ordered into isolation pursuant to the Infection Control Act, the same opportunity to vote at their place of residence. Voters who, due to Covid-19, are ordered to quarantine pursuant to the Infection Control Act may also vote at their place of residence, however this is regulated in Section 8-3 c, subsection 2 of the Election Act. No requirements are set for the application other than voters having to report that they are unable to vote in advance at an ordinary polling location due to illness, disability or duty to isolate. The provision requires voters to report the duty to isolate in the application so as to enable the municipality to plan for the use of personal protective equipment when receiving the vote. Voters have the right to vote. The applications

cannot be rejected. The *second sentence* sets the application deadline at 10am on the Friday before election day. The application deadline will be the same for all voters who apply for advance ambulatory voting at the 2021 parliamentary election.

Reference is otherwise made to the general preparatory works in section 6.3.

For Section 8-3 c

Subsection 1 stipulates that voters who, due to Covid-19, are in entry quarantine or infection quarantine pursuant to the Infection Control Act, may only vote in advance at locations determined by the electoral committee. The electoral committee can delegate this authority to the administration of the municipality.

Subsection 1 also states that voting must take place at a suitable location. When assessing what is a *suitable location* pursuant to this provision, particular emphasis must be placed on ensuring that voting can take place in a manner that is adequate in terms of infection control. Section 8-3, subsection 1 of the Election Act, which stipulates that voting must take place at a suitable and accessible location, also applies for voting pursuant to this provision. The electoral committee can decide that voting must take place, for example, outside of an ordinary polling station, separate from other voters at a protected and suitable location, or at a polling station that has been specifically established for voters in quarantine (for example, so that it is possible to receive votes from voters while they are sitting in their cars, which may make it easier to maintain distancing from other voters). The provision entails that voters who are in quarantine cannot vote in advance at the ordinary advance voting locations.

Pursuant to *subsection 2*, voters who cannot vote in advance at the locations the electoral committee has decided that advance votes shall be received pursuant to subsection 1, can apply to the municipality to be able to vote in advance at their place of residence. This will be particularly relevant for voters who need to travel by public transport to be able to vote at a location where the electoral committee has stipulated that voters in quarantine have to vote.

Reference is otherwise made to the general preparatory works in section 6.4.

For Section 8-7.

The provision grants the Ministry regulatory authority to order the municipalities to ensure that the 2021 parliamentary election is conducted in a manner that is adequate in terms of infection control and to order the municipalities to ensure that specific measures are initiated in accordance with recommendations from the health authorities. The infection control measures that the Ministry can order the municipalities to implement include ensuring the necessary distancing requirements between people when voting and hygiene measures. Among other things, hygiene measures will include ensuring there is good hand hygiene at voting locations and cleaning of the premises that are used. This will also include ensuring that personal protective equipment such as masks is used when receiving votes from voters who are in isolation. The municipalities are subject to this duty pursuant to the provision.

Reference is otherwise made to the general preparatory works in section 6.8.

For Section 9-3 a

The provision permits the polling station for the polling district to be located outside of the polling district's geographical area. Section 9-3, subsection 2 of the Election Act, which stipulates that voting must take place at suitable and accessible premises, also applies when the electoral committee wants to enable voting to take place at a polling station outside of the polling district. Among other things, it must be a simple task for the voters in the polling district to access the polling station. The requirement in Section 30 of the Election Regulations, cf. Section 26, that, when facilitating voting in the polling stations, the emphasis should be on good accessibility for all voters, will also apply.

Reference is otherwise made to the general preparatory works in section 6.1.

For Section 9-3 b

Subsection 1 stipulates that the electoral committee itself can establish one or more extra polling stations for one or more polling districts in the municipality. The authority to establish extra polling stations cannot be delegated to others. The extra polling stations must also have a polling committee. Section 9-3, subsection 2 of the Election Act also applies to extra polling stations established by the electoral committee. The requirement in Section 30 of the Election Regulations, cf. Section 26, that, when facilitating voting in the polling stations, the emphasis should be on good accessibility for all voters, will also apply. Extra polling stations can only be established if there is a local Covid-19 outbreak in the municipality. The electoral committee itself must decide whether there is a local Covid-19 outbreak in the municipality. Extra polling stations may also be established specifically for voters who are in quarantine, cf. Section 9-3 c.

Subsection 2 stipulates routines for how voting shall take place at extra polling stations that are established pursuant to subsection 1. If the municipality has introduced electronic crossing off on the electoral register on election day, cf. Section 9-5 a of the Election Act, the returning officer can place a cross beside the voter's name in the electoral register and the voter can place the ballot paper in the ballot box. If communication with the electoral register is interrupted, the ballot papers shall be treated as contingency votes, cf. Section 9-5 a, subsection 4 of the Election Act. If the municipality uses a hardcopy electoral register, the vote must be cast in a ballot paper envelope that is placed in a cover envelope. The reason for this is that there will be no electoral register for the polling district available for the extra polling station.

Reference is otherwise made to the general preparatory works in section 6.6.

For Section 9-3 c

Subsection 1 stipulates that, at the 2021 parliamentary election, voters who are ordered into quarantine pursuant to the Infection Control Act due to Covid-19, must vote at a suitable location determined by the electoral committee on election day. See the remarks to Section 8-3 c, subsection 1.

Subsection 2 regulates how voting shall take place if the returning officer cannot place a cross beside the voter's name in the electoral register. See the remarks to Section 9-3 b, subsection 2.

Subsection 3 stipulates that voters who are in quarantine and who cannot vote at the location decided by the electoral committee can apply to vote at their place of residence. See the remarks to Section 9-6 a.

Reference is otherwise made to the general preparatory works in section 6.4.

For Section 9-3 d

The provision entails a codification of the Ministry's interpretation of a polling station being able to consist of multiple rooms. The rooms must therefore be connected. Among other things, the requirement in Section 9-3, subsection 2 of the Election Act that voting shall take place at *suitable* premises, entails that the polling committee must have control of the voting process at the polling station, cf. Section 4-2 of the Election Act which states that the polling committee shall administer voting at the polling station on election day. This may place restrictions on the size and design of the polling station and thus the premises that can be used.

Reference is otherwise made to the general preparatory works in section 6.1.

For Section 9-6 a

Subsection 1, first sentence grants voters who, due to Covid-19, have a duty to isolate pursuant to the Infection Control Act and cannot cast a vote at a polling station on election day, the right to vote at their place of residence. The *second sentence* stipulates the deadline for submitting an application. The application must have been received by the municipality by 10am on election day. No requirements are set for the application other than it having to state that the voter cannot vote at a polling station on election day due to a duty to isolate.

Subsection 2, first sentence stipulates when the votes cast pursuant to subsection 1 can be received. The votes can be received on the Saturday and Sunday before election day, and on election day. The *second sentence* stipulates that ballot paper envelopes and cover envelopes must be used when these votes are received. The votes shall be considered ordinary polling day votes in the count.

Subsection 3, first sentence establishes a requirement that there shall be no fewer than two returning officers present when votes are received pursuant to subsection 1. The *second sentence* establishes an exemption from this requirement. The electoral committee is granted the authority to waive the requirement for having a minimum of two returning officers when, due to a local Covid-19 outbreak, this is considered necessary for voters being able to vote. The electoral committee's authority may not be delegated. See the remarks to Section 8-1 a.

Reference is otherwise made to the general preparatory works in section 6.3.

For Section 9-11

The provision grants the Ministry regulatory authority to order the municipalities to ensure that the 2021 parliamentary election is conducted in a manner that is adequate in terms of infection control and to order the municipalities to ensure that specific measures are initiated in accordance with recommendations from the health authorities. See the remarks to Section 8-7 a.

Reference is otherwise made to the general preparatory works in section 6.8.

For Section 10-4 a

Subsection 1 stipulates that no separate count can be conducted of ballot papers cast at extra polling stations. The provision only regulates the counting of ballot papers that are placed directly in a ballot box. The ballot papers must either be counted by the polling committee at the ordinary polling station in the polling district together with the other ballot papers cast in the polling district or counted by polling station or collectively at the offices of the electoral committee.

Pursuant to *subsection 2*, ballot papers cast in ballot paper envelopes must not be counted in the same manner as ballot papers placed directly in the ballot box. The provision applies to ballot papers placed in an envelope at an extra polling station on election day, and votes received on the Saturday and Sunday before election day, and on election day, from voters who are in quarantine or isolation at their places of residence.

Reference is otherwise made to the general preparatory works in sections 6.3, 6.4 and 6.6.

For Section 10-5 a

The provision stipulates that preliminary counting of advance votes at the 2021 parliamentary election can start on the Sunday before the official election day. Counting may only commence on the Sunday if this can take place without violating the principle of a secret ballot. The condition that counting may only commence if this can take place without violating the principle of a secret ballot is a continuation of current law. It is only the point in time at which counting can commence that constitutes a change to current law.

Reference is otherwise made to the general preparatory works in section 6.7.

For Section 15-12

The provision entails that the municipal council cannot decide to introduce infection control measures in the municipality that will result in the 2021 parliamentary election not being able to be conducted, cf. Articles 50 and 54 of the Constitution. Decisions by the municipal council pursuant to Section 4-1, paragraph one of the Infection Control Act must therefore be formulated such that voters are not deprived of the opportunity to vote at the election.

There is a long period for advance voting. The provision therefore does not prevent the introduction of infection control measures that restrict the ability of voters to vote in advance during a limited part of the advance voting period, as long as voters have a reasonable opportunity to vote at a later date. The provision therefore primarily infringes on the municipal council's authority pursuant to Section 4-1, paragraph one of the Infection Control Act to adopt infection control measures for the final part of the advance voting period and for election day.

Reference is otherwise made to the general preparatory works in section 6.9.

For Section 7-2 a of the Local Government Act

The provision stipulates that Section 7-2, paragraph three (b) of the Local Government Act does not apply for elections to polling committees pursuant to Section 4-2 of the Election Act at the 2021 general election. Pursuant to Section 7-2, paragraph three (b) of the Local Government Act, people who are eligible for election must be entered in the Population Registry as being a resident of the municipality. The new provision therefore entails that people who are registered in the Population Registry as being residents outside of the municipality can also be elected as members of a polling committee in the municipality for the 2021 parliamentary election.

Reference is otherwise made to the general preparatory works in section 6.2.

Entry into force and the repeal provisions

It is proposed that the Act shall enter into force immediately. The new provisions shall only apply in connection with the 2021 parliamentary election, and it is proposed that these be repealed on 1 January 2022.

The Ministry of Local Government and Modernisation

recommends:

That His Majesty approves and signs a submitted proposition to the Storting on the Temporary Act relating to amendments to the Election Act and Local Government Act (measures for remedying the negative consequences of Covid-19).

We **HARALD**, King of Norway,

affirm:

The Storting is requested to adopt the Temporary Act relating to amendments to the Election Act and Local Government Act (measures for remedying the negative consequences of Covid-19) in accordance with the enclosed draft bill.

Draft bill for

Temporary Act relating to amendments to the Election Act and Local Government Act (measures for remedying the negative consequences of Covid-19).

I

The following amendments will be made to Act no. 57 of 28 June 2002 relating to elections to the Storting, county councils and municipal councils:

The new Section 8-1 a shall read:

Section 8-1 a *Right to waive the requirement for two returning officers at the 2021 parliamentary election*

If, due to a local Covid-19 outbreak, this is necessary for ensuring that voters are able to vote, the electoral committee itself can waive the requirement in Section 8-1, subsection 5 when receiving votes pursuant to Section 8-3, subsection 2 a, Section 8-3 b and Section 8-3 c, subsection 2.

The new Section 8-3 a shall read:

Section 8-3 a *Polling stations for the 2021 parliamentary election that consist of multiple rooms*

For the 2021 parliamentary election, a polling station may consist of multiple inter-connecting rooms.

The new Section 8-3 b shall read:

Section 8-3 b *Ambulatory voting at the 2021 parliamentary election in the event of illness, disability, or duty to isolate due to Covid-19.*

(1) Voters who reside domestically, with the exception of Svalbard and Jan Mayen, and who cannot cast a vote pursuant to Section 8-3, subsection 2 due to illness, disability or duty to isolate caused by Covid-19, may apply to the electoral committee to cast an advance vote for the 2021 parliamentary election at their place of residence. The application must have been received by the municipality by 10am on the Friday before election day. The electoral committee shall announce the deadline for applications.

(2) Section 8-3, subsection 6 does not apply for the 2021 parliamentary election.

The new Section 8-3 c shall read:

Section 8-3 c *Advance voting at the 2021 parliamentary election for voters who are in quarantine due to Covid-19*

(1) For the 2021 parliamentary election, voters who reside domestically, with the exception of Svalbard and Jan Mayen, and who have been ordered to quarantine due to Covid-19, shall vote in advance at a suitable location determined by the electoral committee.

(2) Voters who are in quarantine and who cannot cast a vote pursuant to subsection 1, can apply to the electoral committee to cast an advance vote at their place of residence. The application must have been received by the municipality by 10am on the Friday before election day. The electoral committee shall announce the deadline for applications.

Section 8-7 shall read:

Section 8-7 Regulations relating to the conduct of advance voting for the 2021 parliamentary election that is adequate in terms of infection control

The Ministry can issue regulations relating to measures for ensuring that advance voting at the 2021 parliamentary election is conducted in a manner that is adequate in terms of infection control, including through contact-reducing measures and hygiene measures.

The new Section 9-3 a shall read:

Section 9-3 *The right to use polling stations outside of the polling district for the 2021 parliamentary election*

At the 2021 parliamentary election, a polling station can be located outside of the polling district.

The new Section 9-3 b shall read:

Section 9-3 b *The right to establish extra polling stations for the 2021 parliamentary election*

(1) In the event of a local Covid-19 outbreak, the electoral committee for the 2021 parliamentary election may itself establish extra polling stations for a polling district.

(2) If a returning officer at a polling station cannot place a cross beside the voter's name in the electoral register pursuant to subsection 1, the returning officer must stamp the ballot paper before the voter him or herself places this in a ballot paper envelope and seals the envelope. The returning officer shall place the ballot paper envelope in a cover envelope, seal it and add the voter's name, residential address and date of birth. The voter shall place the cover envelope in a ballot box.

The new Section 9-3 c shall read:

Section 9-3 Voting at the 2021 parliamentary election for voters who are in quarantine due to Covid-19

(1) On election day for the 2021 parliamentary election, voters who are ordered to quarantine due to Covid-19 shall vote at a suitable location determined by the electoral committee.

(2) If the returning officer cannot place a cross beside the voter's name in the electoral register, the returning officer must stamp the ballot paper before the voter him or herself places this in a ballot paper envelope and seals the envelope. The returning officer shall place the ballot paper envelope in a cover envelope, seal it and add the voter's name, residential address and date of birth. The voter shall place the cover envelope in a ballot box.

(3) Voters who are in quarantine and who cannot cast a vote pursuant to subsection 1, may apply to the electoral committee to cast a vote at their place of residence. Section 9-6 a therefore correspondingly applies.

The new Section 9-3 d shall read:

Section 9-3 d Polling stations at the 2021 parliamentary election that consist of multiple rooms

For the 2021 parliamentary election, a polling station may consist of multiple inter-connecting rooms.

The new Section 9-6 a shall read:

Section 9-6 a Voting at the 2021 parliamentary election for voters who are in isolation due to Covid-19

(1) Voters who reside domestically, are registered in the electoral register in the municipality, and who cannot cast a vote pursuant to Section 9-3, subsection 2 due to a duty to isolate because of Covid-19, may apply to the electoral committee to cast a vote at the 2021 parliamentary election at their place of residence. The application must have been received by the municipality by 10am on election day. The electoral committee shall announce the deadline for applications.

(2) The votes can be received on the Saturday and Sunday before election day, and on election day. The voter must not place the ballot paper in the ballot box. When the ballot paper has been stamped, the voter places this in a ballot paper envelope and seals the envelope. The returning officer shall place the ballot paper envelope in a cover envelope, seal it and add the voter's name, residential address and date of birth. The voter shall place the cover envelope in a ballot box.

(3) There must be a minimum of two returning officers present when receiving votes in accordance with subsection 1. If, due to a local Covid-19 outbreak, this is necessary for ensuring

that voters are able to vote, the electoral committee itself can waive the requirement for a minimum of two returning officers.

Section 9-11 shall read:

Section 9-11 *Regulations relating to the conduct of the 2021 parliamentary election that is adequate in terms of infection control*

The Ministry can issue regulations relating to measures for ensuring that the conduct of the 2021 parliamentary election is adequate in terms of infection control, including through contact-reducing measures and hygiene measures.

The new Section 10-4 a shall read:

Section 10-4 a *Counting of ballot papers cast at extra polling stations and ballot papers placed in ballot paper envelopes*

(1) Ballot papers cast at extra polling stations cannot be counted separately.

(2) Section 10-6, subsection 2, second and third sentences apply correspondingly for ballot papers placed in ballot paper envelopes pursuant to Section 9-3 c or Section 9-6 a.

The new Section 10-5 a shall read:

Section 10-5 a *Preliminary counting at the 2021 parliamentary election*

If this is able to take place without violating the principle of a secret ballot, preliminary counting of advance votes at the 2021 parliamentary election may commence on the Sunday before election day.

The new Section 15-12 shall read:

Section 15-12 *Restrictions on the municipal council's authority pursuant to Section 4-1, subsection 1 of the Infection Control Act at the 2021 parliamentary election*

The municipal council cannot adopt infection control measures pursuant to Section 4-1, paragraph one of the Infection Control Act that will result in the 2021 parliamentary election not being able to be conducted.

II

The following new Section 7-2 a shall be added to Act no. 83 of 22 June 2018 relating to municipalities and county councils:

Section 7-2 a *Eligibility for election to polling committees at the 2021 parliamentary election.*

For the 2021 parliamentary election, Section 7-2, paragraph three (b) shall not apply for elections to polling committees pursuant to Section 4-2 of the Election Act.

III

The Act shall enter into force immediately.

Sections 8-1 a, 8-3 a, 8-3 b, 8-3 c, 8-7, 9-3 a, 9-3 b, 9-3 c, 9-3 d, 9-6 a, 9-11, 10-4 a, 10-5 a and 15-12 of the Election Act and Section 7-2 a of the Local Government Act shall be repealed on 1 January 2022.

