



OVERHANGS

How an overhang occurs

Under MMP, a party is entitled to a number of seats based on its shares of the total nationwide party vote. If a party is entitled to 10 seats, but wins only seven electorates, it will be awarded three list seats, bringing it up to its required number.

If a party's share of the overall party vote entitles it to five seats, but it wins six electorates, the sixth seat is called an overhang seat.

When this happens, the party keeps all the electorates seats it has won but gets no list seats. The number of seats allocated under the Sainte-Laguë method increases by the number of overhang seats that have been won, thereby increasing the size of Parliament by the same number.

Overhang seats occurred at the 2005, 2008 and 2011 general elections when the size of Parliament increased to 121, 122, and 121 members respectively.

What submitters said—

The issue of what should happen when a party wins more electorate seats than it would be entitled to under its share of the party vote was raised in 1,415 submissions during the consultation phase.

The majority were in favour of retaining the status quo (64%). The next preferred option was adopting a formula that would fix the size of the House at 120 members (25%).

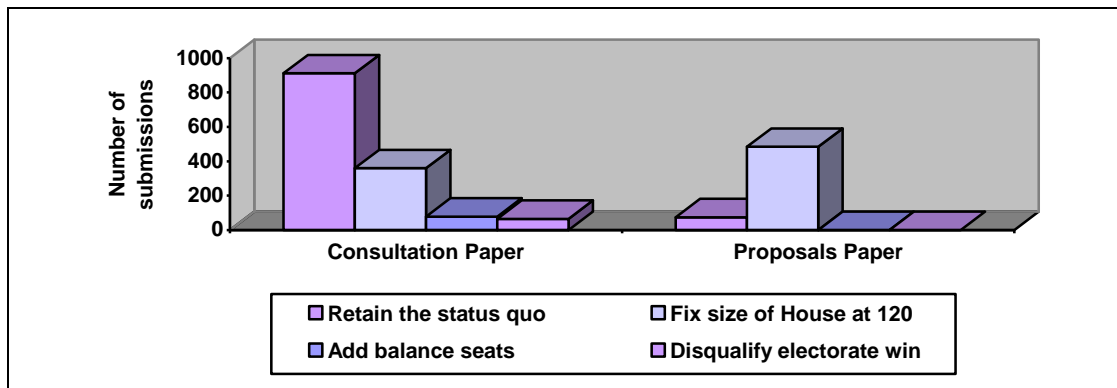
Smaller numbers favoured the introduction of balance seats (6%) with another small group suggested that a party forfeit its electorate wins to the second place getter if its electorate wins produced an overhang (5%).

This issue was raised in 558 submissions on the Proposals Paper with 87% in support of a fixed number of seats and 13% supported the status quo.





Figure: Simple analysis of submissions on managing overhangs



COMMISSION'S RECOMMENDATION

- ❖ If the one electorate seat threshold is abolished, the provision for overhang seats should be abolished.

Comments and themes from the full submissions what should happen when a party wins more electorate seats than it would be entitled to under its share of the party vote.

Political parties

All the political parties that commented on this issue support the status quo. They submitted that, while overhangs are undesirable because they distort proportionality, the current practice has the least impact on proportionality. Absorbing overhangs to ensure the size of the House remains fixed at 120 members would potentially result in greater disproportionality with major parties likely to have fewer seats than their party vote shares would entitle them. The introduction of 'balance' seats would see a greatly increased House which is likely to be unpopular. The National Party raised the issue of the impact of the abolition of the one electorate seat threshold on the likelihood of overhangs occurring.

Academics

Professor Elizabeth McLeay commented "this aspect of the present MMP system has been surprisingly uncontroversial, perhaps because the numbers of additional seats have been few and the rational for them clear". In recommending the status quo, she is supported by many other academics. Dr Stephen Church, however, proposed that overhangs be capped at 123 seats in total





and anything beyond that would need to be compensated for by the reduction in the number of quotients available for list seat allocation.

Social and other commentators

The Maxim Institute and Voters for Change recommended overhangs be removed. They submitted overhangs can make it more difficult for a government to form a majority because it inflates the total number of seats in the House. While overhangs protect proportionality, they are not essential to the operation of MMP and for the sake of clarity and legitimacy of electoral outcomes, they should not be allowed.

What other submitters said—

Retaining the status quo

- An overhang creates a diverse Parliament where minority views are represented and should be allowed as long as they are not so large as to unreasonably represent a party's strength. The present level (of overhang) is acceptable, but should not get larger.
- The present system of 'overhang' seats should remain. Seats won cannot be taken away. The distortion to proportionality is only temporarily.
- Allow the overhang. This seems like the fairest to all parties and the one that increases the size of Parliament the least. Giving other parties 'balance' seats to maintain proportionality would mean too many MPs. There is already too much criticism (rightly or wrongly) about the size of Parliament - even if the increase is only on a temporary basis.
- A party with overhang seats must keep all the electorate seats it has won and the size of Parliament must increase for that term.
- It should keep its seats, as now. The current situation with the Māori Party hasn't been a real problem.
- The current overhang should be allowed to continue. While not ideal, increasing the number of MPs to retain proportionality or reducing the number of MPs for a party who creates an overhang will make the situation worse, not better.

A fixed number of seats—

- Keep the size of the House at a fixed number.





The number of seats should be fixed and no overhang allowed.

- In the event of an overhang, the electorate MPs still win their seats. After this occurs, the number of available list seats should decrease. This is to keep the number of overall seats in Parliament at 120.
- The option 'Allow overhang but compensate by decreasing the number of quotients available for list seat allocation' seems the best choice as long as 120 is the absolute maximum number of MPs.

Provide additional 'balance' seats—

- Allow the overhang, but provide additional balance seats to other parties. This provides better proportionality, which is after all, the principle behind MMP. The current system of not providing balance seats gives disproportionate power to parties which might be strong in particular electorates but do not have widespread support nationally. This is undemocratic.
- The overhang rule seems like a necessary evil, however if a party with an 'overhanging' MP or two was going to be crucial to the formation of a government that would be iniquitous. Therefore in that situation the largest party should be allowed to bring into Parliament an equal number of MPs as the 'overhanging' number of MPs.

Disqualify electorate wins—

- The party should shed the appropriate number of seats surrendering the most closely contested and working back toward those more easily won until the required number have been released. Surrendering seats in this way would ensure that the fewest possible voters in any electorate are disenfranchised.

The disproportionality index

Lowering the party vote threshold from 5% to 4% and — at the same time — abolishing the one electorate seat threshold could have the effect of increasing the frequency and size of overhangs. This could also affect the disproportionality rate in New Zealand's elections. Before recommending that overhangs be abolished, the Commission undertook some statistical modelling to see how disproportionate preceding election results would have been under a proposed 4% party vote threshold and no one electorate seat threshold.





Disproportionately is usually measured using an index developed by Professor Michael Gallagher (the 'Gallagher Index'). This index is widely regarded as the best measure of disproportionality. A perfectly proportional election would have a 0.0% rate — therefore, the higher the rate, the greater degree of disproportionality. Generally speaking, a disproportionality rate of less than 3% can be regarded as an indication of an electoral system that is, on balance, reasonably fair.

To put the results in the table below into perspective, the average disproportionality for the FPP elections in New Zealand from 1946-90 was 10.66%. By way of contrast, the following are the rates for a selection of proportional representation electoral systems are: Denmark: 1.74%; Finland: 2.86%; Germany: 0.67%; Iceland: 2.86%; Norway: 3.65%; Sweden: 1.67%; and Switzerland: 2.36%.¹

Table 1: Levels of disproportionality in the three MMP elections that had overhangs (Column A), as well as calculations of the disproportionality if the votes had been cast in those elections with the current thresholds but where overhangs are eliminated (Column B), a 4% party vote threshold in which overhangs are permitted (Column C,) and a 4% party threshold in which overhangs are not permitted (Column D).²

Election Year	Column A A 5% threshold with overhangs	Column B A 5% threshold without overhangs	Column C A 4% party vote threshold with overhangs	Column D A 4% party vote threshold without overhangs
2005	1.13	1.13	2.14	2.12
2008	3.84	3.94	2.93	3.05
2011	2.38	2.32	2.38	2.32
Average	2.45	2.46	2.48	2.50

Column A shows the degree of disproportionality that actually occurred in the three MMP elections where overhangs occurred. The rules for these elections included two thresholds—parties had to win either at least 5% of the party vote or at least one electorate seat in order to be eligible for a proportional share of all 120 seats in Parliament.³

¹ Arend Lijphart, 1994: Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies, 1945-1990, Oxford: Oxford University Press

² See attached pdf worksheets for these calculations.

³ It is noteworthy that the only two occasions when the LSQ statistics exceeded 3% were in 1996 and 2008, when – in each of those two elections – a party won more than 4% but less than 5% of the party votes and did not win an electorate, and thus did not qualify for any seats in Parliament.



Comparing columns A and B, it can be seen that had 119, 118, and 119 quotients actually been distributed in the 2005, 2008, and 2011 general elections respectively, then the average disproportionality for those three elections would have risen very slightly (ie by just 0.01%).

Similarly, when columns C and D are compared, using data for the 2005, 2008, and 2011 general elections, but assuming a 4% party vote threshold and no one electorate seat threshold, the disproportionality index falls twice very slightly and rises once with an overall (ie an average) difference of only 0.12%.

Government formation with and without overhangs

While the majority of submitters favour the status quo, the point was made that if ever a Parliament is formed where the Government gets decided on the basis of overhang MPs, or the party with the greatest vote share is unable to form a government, it would create a potential legitimacy issue, even a crisis of confidence in the MMP electoral system.

A few submitters made the point that if the one electorate seat threshold is abolished, this might increase the likelihood of frequent and possibly larger overhangs. For example, a re-calculation of the 2011 general election results without the one electorate seat threshold could have resulted in a six seat overhang.

The data in the table below show the possible consequences for government formation under the proposed threshold changes without overhangs. Exactly the same governing arrangements that were negotiated in 1999, 2002, 2008 and 2011 would have been possible had the electoral system had a 4% party vote threshold, no electorate seat threshold and no provision for overhang seats.

It is not possible to say what would have happened in 1996 and 2005 had different rules applied but it could have resulted in different governing relationships.

Care needs to be exercised with the scenario presented in this table. Under different thresholds, it is likely both voters and parties would make different decisions.





Table 2: Showing Government composition and the number of governing party seats required and calculating the number of seats a governing party would need in a Parliament with a 4% threshold with and without overhangs

Election Year	Actual Government composition and numbers	Government composition and numbers with a 4% threshold without overhangs	Government composition and numbers with a 4% threshold with overhangs
1996	National, NZ First	National, NZ First	National, NZ First
	61/120	59/120	59/121
1999	Labour, Alliance	Labour, Alliance	Labour, Alliance
	59/120	59/120	60/121
2002	Labour, Progressives, United Future	Labour, Progressives, United Future	Labour, Progressives, United Future
	62/120	62/120	63/121
2005	Labour, Progressives, NZ First, United Future	Labour, Progressives, NZ First, United Future	Labour, Progressives, NZ First, United Future
	61/121	60/120	64/127
2008	National, ACT, Māori, United Future	National, ACT, Māori, United Future	National, ACT, Māori, United Future
	69/122	63/120	67/128
2011	National, ACT, Māori, United Future	National, ACT, Māori, United Future	National, ACT, Māori, United Future
	64/121	63/120	66/126

