

Local Government Electoral Legislation Bill

Government Bill

As reported from the Governance and Administration Committee

Commentary

Recommendation

The Governance and Administration Committee has examined the Local Government Electoral Legislation Bill and recommends by majority that it be passed. We recommend all amendments unanimously.

Introduction

This omnibus bill would change the way individuals and communities are represented through local elections, and the way they participate in local elections.

The bill would change the process that councils follow every six years to determine their representation arrangements, making consideration of specific Māori representation the first step of this process. The bill would also change the current restriction on the number of councillors on Auckland Council, from 20 to a range of between 5 and 29, excluding the Mayor. This change would align the Local Government (Auckland Council) Act 2009 with the Local Electoral Act 2001.

This bill would also simplify the process used to change local board boundaries and the process for dealing with tied votes in an election. Finally, it would allow all candidates to submit electronic nominations.

The bill would mainly amend the Local Electoral Act 2001, the Local Government Act 2002, and the Local Government (Auckland Council) Act 2009. It would make minor and consequential changes to the Local Electoral Regulations 2001 and the Bay of Plenty Regional Council (Māori Constituency Empowering) Act 2001 for consistency with the changes made to the Local Electoral Act.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Aligning the bill with the Electoral (Māori Electoral Option) Legislation Act

Some of the amendments we propose are for consistency with the Electoral (Māori Electoral Option) Legislation Act 2022.

We recommend amending clause 4, which would amend section 5 (the interpretation section) of the Local Electoral Act. This would align the bill with the Electoral (Māori Electoral Option) Legislation Act, ensuring that this bill does not duplicate changes that Act made to the Local Electoral Act.

Our amendments would delete the definitions of: “dormant role”, “General electoral district”, and “Māori”. Because these definitions have been inserted by the Electoral (Māori Electoral Option) Legislation Act, they are not needed here. Our amendments would also change the definition of “estimated Māori electoral population” so it aligns with the definition of “Māori electoral population” in the Electoral (Māori Electoral Option) Legislation Act.

We also recommend amending clause 2, the commencement clause, to prevent amendments made by this bill from being overwritten by amendments made by the Electoral (Māori Electoral Option) Legislation Act.

Community engagement requirements

Clause 8 of the bill would insert section 19GA into the Local Electoral Act. New section 19GA would require territorial authorities and regional councils, when making decisions about Māori representation, to engage with Māori and other communities in accordance with Part 6 of the Local Government Act 2002.

As introduced, it may not be clear whether local authorities must carry out the special consultative procedure prescribed in section 83 of the Local Government Act. We understand that it is not the intent of this bill to require local authorities to use the special consultative procedure when engaging with communities about Māori representation. In practice, the type of engagement would be dictated by each local authority's Significance and Engagement Policy. Section 76AA of the Local Government Act requires each council to maintain such a policy, setting out how they determine the significance of proposals and decisions, and what level of engagement is appropriate for decisions of different levels of significance.

Our amendment would change the wording in section 19GA(5)(a) from “in accordance with Part 6 of the Local Government Act 2002” to “as part of its consultation under subpart 1 of Part 6”. This would make it clear that section 19GA was not dictating which particular consultation method should be used under Part 6.

The new provision refers to subpart 1 of Part 6 instead of to Part 6 as a whole. This is because there are other subparts of Part 6 that are not relevant to decisions about specific Māori representation (including reporting obligations and financial management).

Clarifying “communities”

We recommend further amendments to clause 8, new section 19GA, to make it clear which communities a territorial authority or regional council needs to engage with when making decisions about Māori representation.

As introduced, proposed section 19GA(5) states that a territorial authority or regional council must engage with Māori and “other communities of interest”. However, we note that the term “communities of interest” is not defined in the Local Electoral Act, and is often interpreted to have a place-based meaning.

Our amendment would remove the words “of interest” from section 19GA(5)(a) and clarify that the term “communities” should be interpreted as it is used in Part 6 of the Local Government Act.

Reviewing Māori representation when a Māori ward or constituency is already in place

As introduced, section 19GA could be read as requiring a determination about Māori representation to be made before each triennial election. We understand that this is not the intent. Currently, Māori wards and constituencies must be in place for two triennial elections before they can be removed. This is designed to allow the wards and constituencies to “bed in” and for territorial authorities and regional councils to assess whether they add value.

We recommend amending clause 8, proposed new sections 19GA(6) and 19GB, to clarify that territorial authorities and regional councils that have had Māori wards and constituencies instated during only one of their previous two elections cannot review Māori representation.

Our amendments to sections 19GA(6) and 19GB would make it clear that territorial authorities and regional councils cannot make decisions about Māori representation if they have had Māori wards and constituencies for only one of their previous two triennial elections.

Notifying entities of decisions about Māori representation

Clause 13 of the bill would amend section 19L of the Local Electoral Act, which requires territorial authorities and regional councils to notify certain entities of any resolutions they make under particular provisions. We recommend adding clause

19GA to the list, so that any resolution about Māori representation must also be notified to the following entities:

- the Local Government Commission
- the Surveyor-General
- the Government Statistician
- the Remuneration Authority
- other local authorities that preside over an area that overlaps with the area of the council that made the decision.

Changing the timing of representation reviews

We recommend amending clauses 15, 16, and 18 (which amend sections 19N, 19O, and 19Q) to change the timeframes involved in the representation review process.

Clause 15(1) would amend section 19N(1) of the Local Electoral Act. This section sets out how territorial authorities and regional councils must respond to submissions on their initial representation proposal. Our amendment would extend the timeframe given to them to respond, from 6 weeks to 8 weeks. This would allow territorial authorities and regional councils more time to resolve their final representation proposal.

Clause 16 would amend section 19O of the Local Electoral Act. This section sets out the process for appealing a decision by a territorial authority or regional council about the representation review. To ensure sustained engagement and a quicker final resolution, we recommend reducing the amount of time during which people can appeal. Our amendment would change the date by which appeals must be received, from 20 December to 30 November in a year immediately before the year of a triennial general election.

Clause 18 would amend section 19Q, which relates to the obligation to forward appeals and objections about a representation proposal to the Local Government Commission. Our proposed amendment would bring forward from 15 January to 20 December the date by which a territorial authority or regional council must forward any appeal or objection they have received. This would ensure an efficient and focused process.

Order of decisions about electoral system and representation

We recommend inserting clauses 23A, 23B, 23C, 23D, and 23E (amending sections 28, 30, 31, 33, and 34) to ensure that polls about which electoral system to use are demanded and held before proposals for detailed representation arrangements are resolved.

Currently, electors have until 21 February in the year before an election to demand a poll that would determine the type of electoral system for that area. However, this is two months after the first date by which territorial authorities and regional councils may resolve their initial representation proposal. To correct this mismatch, we pro-

pose bringing the date for a poll demand forward, to 11 December of the preceding year. We propose corresponding adjustments of about two months to other deadlines specified in these provisions.

Our amendments would minimise the risk of representation decisions being made before the type of electoral system was determined. Our amendments would also ensure that the dates met the requirements of section 138A of the Local Electoral Act.

Recounts and tied votes

We recommend amending clause 29 to provide for a consistent withdrawal deadline for candidates involved in a tied vote. We recommend that candidates be given 3 working days to withdraw.

Clause 29 would insert section 92B into the Local Electoral Act allowing an election candidate to withdraw if they were tied with another candidate after a recount. As introduced, the bill provides for the electoral officer to set the date that candidates may withdraw. However, this could lead to unnecessary delays in the result of the election being announced. Also, the time allowed could vary across the country, leading to inconsistencies.

Our amendment would remove subsections (2) and (3) from proposed section 92B and specify in subsections (4) and (8) that the time allowed for a candidate to withdraw is 3 working days after the recount. This would provide a consistent withdrawal deadline for candidates.

New Zealand National Party differing view

While there are positive elements of the bill that we believe will help local government, we strongly oppose the removal of the requirements surrounding Māori seats. This bill will, in practice, require councils to decide not to implement Māori-specific arrangements every six years, putting it on the agenda and requiring consultation regardless of if there is a desire around the council table or in the community. There are provisions in current law that allow the creation of Māori wards where councils choose to adopt them. We also remain unconvinced that there is a compelling case to increase the number of seats on the Auckland Council. For these reasons, the National Party members of the Committee do not recommend this bill be passed.

Appendix

Committee process

The Local Government Electoral Legislation Bill was referred to the committee on 2 August 2022.

We called for submissions on the bill with a closing date of 14 September 2022. We received and considered 49 submissions from interested groups and individuals. We heard oral evidence from 11 submitters.

We received advice on the bill from the Department of Internal Affairs. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Ian McKelvie (Chairperson)

Rachel Boyack

Naisi Chen

Jamie Strange

Hon Michael Woodhouse

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nanaia Mahuta

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Electoral Legislation Act **2022**.

2 Commencement

- (1) ~~This~~ Except as provided in **subsection (2)**, this Act comes into force on the day after the date on which it receives the Royal assent. 5

- (2) **Section 32(11) and (12)** and the items in **Part 1 of Schedule 2** relating to section 9 of the Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001 come into force on the later of—
- (a) the day after the date on which this Act receives the Royal assent; and
- (b) **1 April 2023.**

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Part 1

Amendments to Local Electoral Act 2001

3 Principal Act

This Part amends the Local Electoral Act 2001.

4 Section 5 amended (Interpretation)

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In section 5(1), insert in their appropriate alphabetical order:

assessment date means a date after the last periodic census on which the Government Statistician assessed the number of persons

~~**dormant roll** means a dormant roll referred to in section 109 of the Electoral Act 1993~~

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estimated general electoral population means the estimated total ordinarily resident population as at the assessment date with the exception of the estimated Māori electoral population

estimated Māori electoral population means an estimated figure representing both the persons registered as electors of the Māori electoral districts and a proportion of Māori persons who are not registered as electors of any electoral district and a proportion of Māori persons under the age of 18 years, which figure must be fixed—

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(a) by ascertaining a proportion determined by dividing—

- (i) ~~the total number of persons, on assessment date, registered as electors of Māori electoral districts and named on the dormant rolls for Māori electoral districts; by either—~~

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(A) registered as electors of Māori electoral districts; or

(B) named on the dormant rolls for Māori electoral districts; by

- (ii) ~~the total number of Māori persons, on assessment date, registered as electors of Māori electoral districts or General electoral districts and named on the dormant rolls for Māori electoral districts or General electoral districts; and either—~~

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(A) registered as electors of Māori electoral districts or General electoral districts; or

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(B) named on the dormant rolls for Māori electoral districts or General electoral districts; and

- (b) by applying the proportion ascertained under paragraph (a) to the total number of ordinarily resident Māori persons on assessment date
- ~~General electoral district~~ has the meaning given in section 3(1) of the Electoral Act 1993
- ~~Māori~~ has the meaning given in section 3(1) of the Electoral Act 1993 5
- ~~Māori electoral district~~ has the meaning given in section 3(1) of the Electoral Act 1993
- specific Māori representation**, in relation to the representation arrangements for a territorial authority or regional council, means 1 or more members of the territorial authority (other than the mayor) or regional council elected only by electors who are parliamentary electors of a Māori electoral district 10
- unitary authority** has the meaning given in section 5(1) of the Local Government Act 2002
- 5 Section 9 amended (Holding of referendum)**
- Replace section 9(7)(a) with: 15
- (a) in the case of any matter or proposal relating to a review of representation arrangements for the territorial authority or the regional council under **section 19GA**, 19H, 19I, or 19J; or
- 6 Section 19C amended (Basis of election of members of territorial authority)** 20
- After section 19C(5), insert:
- (6) If, for the purpose of a triennial general election, a ~~the~~ district of a territorial authority is required by a resolution made under section 19H to be divided into 1 or more Māori wards, this Part (other than sections 19B, 19G, and 19J) is subject to Schedule 1A. 25
- 7 Section 19E amended (Basis of election of members of regional council)**
- After section 19E(5), insert:
- (6) If, for the purpose of a triennial general election, a ~~the~~ region of a regional council is required by a resolution made under section 19I to be divided into 1 or more Māori constituencies, this Part (other than sections 19B, 19G, and 19J) is subject to Schedule 1A. 30
- 8 New sections 19GA and 19GB inserted**
- After section 19G, insert:

19GA Review of specific Māori representation for elections of territorial authorities and regional councils

- (1) **Subsection (2)** applies if, for the previous 2 triennial general elections, the district of a territorial authority or the region of a regional council was not divided into 1 or more Māori wards or Māori constituencies for electoral purposes. 5
- (2) The territorial authority or regional council must, before making a determination under section 19H or 19I, determine by resolution whether the representation arrangements for the territorial authority or the regional council should include specific Māori representation.
- (3) **Subsection (4)** applies if, for the previous 2 triennial general elections, the district of a territorial authority or the region of a regional council was divided into 1 or more Māori wards or Māori constituencies for electoral purposes. 10
- (4) The territorial authority or regional council may, before making a determination under section 19H or 19I, determine by resolution whether the representation arrangements for the territorial authority or regional council should include specific Māori representation. 15
- (5) Before making a determination under **subsection (2) or (4)**, the territorial authority or regional council must—
 - (a) ~~engage with Māori and other communities of interest (as the term communities is used in Part 6 of the Local Government Act 2002) in the district or region in accordance with~~ as part of its consultation under subpart 1 of Part 6 of the Local Government Act 2002 in relation to the determination; and 20
 - (b) ~~have regard to the views of Māori and other communities of interest in the district or region~~ their views on whether the representation arrangements for the territorial authority or regional council should include specific Māori representation. 25
- (6) ~~A~~Any determination under **subsection (2) or (4)** must be made by ~~a~~the territorial authority or regional council no later than 20 December of the year that is 2 years before the next triennial general election. 30
- (7) The territorial authority or regional council must, within 14 days after making a resolution under this section, give public notice of the resolution.
- (8) This section does not apply to a territorial authority or a regional council if another enactment requires that the district or region be divided into 1 or more Māori wards or Māori constituencies. 35

19GB Effect of resolution relating to specific Māori representation

- (1AA) **Subsection (1)** applies if, before a territorial authority or regional council makes a determination under section 19H or 19I (a **representation arrangements determination**),—

- (a) it determines under **section 19GA(2) or (4)** that its representation arrangements should include specific Māori representation; or
- (b) it does not make a determination under **section 19GA(2) or (4)** but its existing representation arrangements include specific Māori representation. 5
- (1) ~~If a territorial authority or regional council determines under **section 19GA(2) or (4)** that representation arrangements should include specific Māori representation, the subsequent determination by the territorial authority or regional council under section 19H or 19I~~ The representation arrangements determination must include,— 10
- (a) in the case of a territorial authority, a proposal to divide (or to continue to divide) the district of the authority into 1 or more Māori wards and 1 or more general wards; and
- (b) in the case of a regional council, a proposal to divide (or to continue to divide) the region of the council into 1 or more Māori constituencies and 1 or more general constituencies; and 15
- (c) a proposed number of members of the territorial authority or regional council that is not less than the number required to ensure that the number of Māori ward members or Māori constituency members calculated under clause 2 or 4 of Schedule 1A is 1 or more. 20
- (1A) **Subsection (2)** applies if, before a territorial authority or regional council makes a representation determination,—
- (a) it determines under **section 19GA(2) or (4)** that its representation arrangements should not include specific Māori representation; or
- (b) it does not make a determination under **section 19GA(2) or (4)** but its existing representation arrangements do not include specific Māori representation. 25
- (2) ~~If a territorial authority or regional council determines under **section 19GA(2) or (4)** that representation arrangements should not include specific Māori representation, the subsequent determination by the territorial authority or regional council under section 19H or 19I~~ The representation arrangements determination must not include a proposal to divide (or to continue to divide) the district or region into 1 or more Māori wards or Māori constituencies. 30
- (3) This section is subject to any other enactment requiring a district or region to be divided into 1 or more Māori wards or Māori constituencies. 35
- 9 Section 19H amended (Review of representation arrangements for elections of territorial authorities)**
- (1) After section 19H(1), insert:
- (1A) If a territorial authority has resolved under **section 19GA** that representation arrangements should include specific Māori representation, the matters 40

	described in clause 1(2)(a) to (g) of Schedule 1A must be determined instead of the matters described in subsection (1)(a) to (d).	
(2)	Replace section 19H(2)(b) with:	
	(b) on subsequent occasions, no later than 6 years after the end of the year in which the previous determination was made <u>by the end of the period of 6 years beginning with the 1 August immediately following the making of the previous determination.</u>	5
(3)	In section 19H(3), replace “section 19ZH” with “ section 19C(6) ”.	
10	Section 19I amended (Review of representation arrangements for elections of regional councils)	10
(1)	After section 19I(1), insert:	
(1A)	If a regional council has resolved under section 19GA that representation arrangements should include specific Māori representation, the matters described in clause 3(2)(a) to (f) of Schedule 1A must be determined instead of the matters described in subsection (1)(b) and (c).	15
(2)	Replace section 19I(2)(b) with:	
	(b) on subsequent occasions, no later than 6 years after the end of the year in which the previous determination was made <u>by the end of the period of 6 years beginning with the 1 August immediately following the making of the previous determination.</u>	20
(3)	In section 19I(3), replace “section 19ZH” with “ section 19E(6) ”.	
11	New section 19JAA inserted (Review of local board area boundaries by unitary authority)	
	After section 19J, insert:	
	19JAA Review of local board area boundaries by unitary authority	25
(1)	A unitary authority may, when it passes a resolution under section 19H, determine by that resolution not only the matters referred to in that section but also new proposed boundaries of local board areas in the district of the unitary authority.	
(2)	In determining new proposed boundaries of local board areas, the unitary authority must ensure that—	30
	(a) the population affected by the new proposed boundaries will not exceed the population transfer limit prescribed by regulations made under this Act; and	
	(b) the boundaries of the local board areas will—	35
	(i) enable democratic local decision making by, and on behalf of, communities of interest throughout the district; and	

- (ii) enable equitable provision to be made for the current and future well-being of all communities of interest within the affected area; and
 - (c) the boundaries of local board areas coincide with boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and 5
 - (d) so far as is practicable, local board area boundaries coincide with ward boundaries.
- (3) Regulations may—
 - (a) prescribe a population transfer limit by specifying a limit on the proportion of the population of an existing local board area that would, if the new proposed boundaries were to take effect,—
 - (i) cease to be included in the population of that local board area; or
 - (ii) be added to the population of that local board area: 10
 - (b) apply different population transfer limits in different circumstances: 15
 - (c) set out 1 or more methods by which the applicable population transfer limit is calculated.
- (4) This section does not prevent a unitary authority from applying to the Local Government Commission for an alteration of the boundaries of local board areas as part of a local government reorganisation under the Local Government Act 2002 instead of determining new proposed boundaries of local board areas in accordance with this section. 20

12 Section 19K amended (Requirements for resolution)

- (1) Replace section 19K(1AA) with:
 - (1AA) A resolution under section 19H, 19I, 19J, or **19JAA** that affects the next triennial general election of members of a territorial authority, regional council, local board, or community board must be passed—
 - (a) no earlier than 20 December of the year that is 2 years before the year of the election and no later than 31 July of the year that is immediately before the year of the election if—
 - (i) the district of the territorial authority or region of the regional council is already divided into 1 or more Māori wards or Māori constituencies and 1 or more general wards or general constituencies; or
 - (ii) the territorial authority or regional council has resolved under **section 19GA** that representation arrangements should not include specific Māori representation; or 35

- (b) after public notice of the resolution under **section 19GA** has been given and no later than 31 July of the year that is immediately before the year of the election if—
- (i) the district of the territorial authority or region of the regional council is not already divided into 1 or more Māori wards or Māori constituencies and 1 or more general wards or general constituencies; and
 - (ii) the territorial authority or regional council has resolved under **section 19GA** that representation arrangements should include specific Māori representation.
- (2) In section 19K(2), replace “If any resolution under section 19H or section 19I or section 19J proposes any change to the basis of the election, membership, or ward, constituency, community, or subdivision boundaries” with “If any resolution under section 19H, 19I, 19J, or **19JAA** proposes any change to the basis of the election, membership, or boundaries of wards, constituencies, communities, local board areas, or subdivisions of local board areas”.
- (3) Replace section 19K(3) with:
- (3) Subsection (1) applies to every resolution under any of the following provisions:
- (a) section 19H(1)(a)(ii) or (iii) or (g):
 - (b) section 19I(1):
 - (c) section 19J(2)(a) to (e) or (h)(iii):
 - (d) **section 19JAA(1)**:
 - (e) clause 1(2)(a) to (g) of Schedule 1A:
 - (f) clause 3(2)(a) to (f) of Schedule 1A.
- 13 Section 19L amended (Distribution of copies of resolution)**
- In section 19L, replace “section 19H or section 19I or section 19J” with “section **19GA**, 19H, 19I, 19J, or **19JAA**”.
- 14 Section 19M amended (Public notice of proposals and responsibilities in relation to submissions)**
- ~~In section 19M(1), replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”.~~
- In section 19M(1),—
- (a) replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”; and
 - (b) replace “8 September” with “8 August”.

15 Section 19N amended (Response to submissions)

- (1) ~~In section 19N(1), replace “within 6 weeks after the end of the period allowed for the making of submissions and specified in the notice given under section 19M” with “no later than 20 November of the year that is immediately before the year of the next triennial general election”.~~

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- (1) In section 19N(1), replace “6 weeks” with “8 weeks”.

- (2) In section 19N(1)(a), replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”.

16 Section 19O amended (Appeals)

- (1) In section 19O(1), replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”.

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- (2) In section 19O(2)(b), replace “20 December” with “30 November”.

17 Section 19P amended (Objections)

In **section 19P(1)**, replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”.

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18 Section 19Q amended (Obligation to forward appeals and objections to Commission)

- (1) In **section 19Q**, replace “in the year of a triennial general election, in no case later than 15 January” with “in a year immediately before the year of a triennial general election, in no case later than 20 December”.

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- (2) In section 19Q(a) and (c), replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**” in each place.

19 Section 19R amended (Commission to determine appeals and objections)

- (1) In section 19R(1)(b)(i), after “the matters specified in that section”, insert “and, if applicable, clause 1(2) of Schedule 1A”.

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- (2) In section 19R(1)(b)(ii), after “the matters specified in that section”, insert “and, if applicable, clause 3(2) of Schedule 1A”.

- (3) After section 19R(1)(b)(iii), insert:

(iv) in the case of a unitary authority that has made a resolution under **section 19JAA**, the matters specified in that section.

30

20 Section 19T amended (Requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities and local boards)

- (1) In section 19T(1), replace “paragraphs (a) to (d) of section 19H(1)” with “section 19H(1)(a) to (d) or clause 1(2)(a) to (g) of Schedule 1A”.

35

- (2) In section 19T(1)(a), replace “subparagraphs (i) to (iii) of section 19H(1)(a)” with “section 19H(1)(a)(i) to (iii) or clause 1(2)(b)(i) and (ii) of Schedule 1A”.

- 21 Section 19U amended (Requirement for effective representation and other factors in determination of membership and basis of election of regional council)**
In section 19U, replace “paragraphs (a) to (c) of section 19I(1)” with “section 19I(1)(a) to (c) or clause 3(2)(a) to (f) of Schedule 1A”. 5
- 22 Section 19Z and cross-heading repealed**
Repeal section 19Z and the cross-heading above section 19Z.
- 23 Section 19ZH repealed (Basis of election of territorial authority and regional council)**
Repeal section 19ZH. 10
- 23A Section 28 amended (Public notice of right to demand poll on electoral system)**
In section 28(2A), replace “21 May” with “14 March”.
- 23B Section 30 amended (Requirements for valid demand)**
- (1) In section 30(3A), replace “21 February in the year before the next triennial general election” with “11 December in the year that is 2 years before the next triennial general election”. 15
- (2) In section 30(3A)(a), replace “21 May in that year” with “14 March in the year before that election”.
- (3) In section 30(4), replace “as soon as is practicable” with “within 2 working days after receiving it”. 20
- 23C Section 31 amended (Local authority may resolve to hold poll)**
- (1) In section 31(1), replace “21 February in the year immediately before the year in which the next triennial general election is to be held” with “11 December in the year that is 2 years before the year in which the next triennial general election is to be held”. 25
- (2) In section 31(3)(a), replace “as soon as is practicable” with “within 2 working days after the resolution is made”.
- 23D Section 33 amended (Poll of electors)**
In section 33(4), replace “21 May” with “14 March”. 30
- 23E Section 34 amended (Effect of poll)**
In section 34(1), replace “21 May” with “14 March”.
- 24 Section 55 amended (Nomination of candidates)**
In section 55(3), delete “, if the person nominated is outside New Zealand”.

25 Part 4 heading replaced

Replace the Part 4 heading with:

Part 4
Recounts and inquiries

26 Section 90 amended (Application for recount)

5

- (1) In the heading to section 90, after “**Application**”, insert “**by candidate**”.
- (2) In section 90(1), replace “3 days” with “3 working days”.

27 New section 90A inserted (Application by electoral officer for recount)

After section 90, insert:

90A Application by electoral officer for recount

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- (1) An electoral officer must apply to a District Court Judge for a recount if—
 - (a) an equal number of votes is received by 2 or more candidates in an election; and
 - (b) the addition of 1 vote would entitle one of those candidates to be declared elected.
- (2) The application must be made as soon as practicable after all valid votes have been counted and before the official results are declared.
- (3) The District Court Judge must, as soon as practicable after receiving the application,—
 - (a) cause a recount of the votes to be made; and
 - (b) give notice in writing to the electoral officer, each of the candidates, and each scrutineer appointed under section 66 or 91 of the time and place at which the recount will be made.

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28 Section 92 amended (Conduct of recount)

Repeal section 92(4).

25

29 New sections 92A and 92B inserted

After section 92, insert:

92A Costs of recount

- (1) If the recount is conducted on application by a candidate under section 90, the District Court Judge—
 - (a) may make any order as to the costs of, and incidental to, the recount that the Judge considers just; and
 - (b) subject to any order, must direct that the deposit required by section 90 be returned to the person who paid it.

30

- (2) If the recount is conducted on application by an electoral officer under **section 90A**, the District Court Judge must order the local authority to meet the costs of, and incidental to, the recount, unless the Judge considers that it would be unreasonable for the local authority to bear those costs.

92B Affected candidate may withdraw if votes tied after recount

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- (1) This section applies if—
- (a) a recount determines that an equal number of votes has been received by 2 or more candidates (the **affected candidates**); and
 - (b) the addition of 1 vote would entitle any of those affected candidates to be declared elected.
- (2) ~~The electoral officer must specify, by notice in writing, a date by which an affected candidate may withdraw as a candidate for election (the **specified date**).~~
- (3) ~~Before setting the specified date, the electoral officer must consult the affected candidates and the chief executive of the local authority concerned.~~
- (4) An affected candidate may withdraw as a candidate for election by giving notice in writing (a **notice of withdrawal**) to the electoral officer ~~before the specified date~~ within 3 working days after the recount.
- (5) A notice of withdrawal may be submitted by hand, post, fax, or electronic transmission.
- (6) If the electoral officer receives a notice of withdrawal from an affected candidate in accordance with **subsections (4) and (5)**, that candidate ceases to be available for election.
- (7) However, a notice of withdrawal is ineffective and the affected candidate who gave it (the **relevant affected candidate**) does not cease to be available for election if—
- (a) the electoral officer has received notices of withdrawal from all the affected candidates in accordance with **subsections (4) and (5)**; and
 - (b) the notice of withdrawal given by the relevant affected candidate was the notice received last by the electoral officer.
- (8) ~~If only 1 candidate remains available for election on the specified date at the close of the third working day after the recount, the electoral officer must give an amended declaration under section 86 of the result of the election.~~

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30 Section 148 amended (Validation of irregularities)

In section 148, replace the compare note with:

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Compare: 1976 No 144 s 122; 1997 No 13 s 63

31 Schedule 1 amended

- (1) In Schedule 1, clause 2(3)(b), replace “under section 19Z takes effect” with “under section 19H or 19I relating to the division of the district or region into 1 or more Māori wards or Māori constituencies takes effect”.
- (2) In Schedule 1, replace clause 2(5) with: 5
- (5) In this clause, **associated election** has the same meaning as in section 19Z(5) (as it was immediately before the date on which the Local Government Electoral Legislation Act **2022** came into force).
- (3) In Schedule 1,—
 - (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and 10
 - (b) make all necessary consequential amendments.

32 Schedule 1A amended

- (1) In the Schedule 1A heading, replace “s 19ZH” with “**ss 19C(6), 19E(6)**”.
- (2) In Schedule 1A, clauses 1(1) and 3(1), replace “31 August” with “31 July”.
- (3) In Schedule 1A, clause 1(2), replace “must be made as if the territorial authority were required by section 19H to determine by resolution, in accordance with Part 1A,” with “must include”. 15
- (4) In Schedule 1A, clauses 2(1) and 4(1), formulas,—
 - (a) after “Māori electoral population”, insert “or estimated Māori electoral population”; and 20
 - (b) after “general electoral population”, insert “or estimated general electoral population”.
- (5) In Schedule 1A, replace clause 2(5) with:
- (5) Subclauses (1) and (2) are subject to **section 19GB(1)(c)**.
- (6) In Schedule 1A, clause 3(2), replace “must be made as if the regional council were required by section 19I to determine by resolution, in accordance with Part 1A,” with “must include”. 25
- (7) In Schedule 1A, clause 6(a)(i) and (ii), after “Māori electoral population”, insert “or estimated Māori electoral population”.
- (8) In Schedule 1A, replace clause 4(4) with: 30
- (4) Subclause (1) is subject to **section 19GB(1)(c)**.
- (9) In Schedule 1A, clause 6(b)(ii), delete “and tribal affiliations”.
- (10) In Schedule 1A, after clause 6(b)(ii), insert:
 - (iii) rohe of iwi and hapū.
- (11) In Schedule 1A, replace clause 7(1) with: 35

- (1) The Government Statistician must, at the request of a territorial authority or regional council or, if appropriate, the Commission, supply the territorial authority or regional council or the Commission with—
- (a) a certificate specifying—
 - (i) the Māori electoral population of the district or region; and 5
 - (ii) the general electoral population of the district or region; or
 - (b) a certificate specifying—
 - (i) the estimated Māori electoral population of the district or region; and
 - (ii) the estimated general electoral population of the district or region. 10
- (12) In Schedule 1A, clause 7(2), replace “the certificate” with “the certificate described in **subclause (1)(a)**”.

33 Minor and consequential amendments related to this Part

Amend the legislation specified in **Schedule 2** as set out in that schedule.

Part 2

15

Amendments to Local Government Act 2002

34 Principal Act

This Part amends the Local Government Act 2002.

35 Section 24 amended (Scope of local government reorganisation)

After section 24(2), insert:

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- (3) However, **Schedule 3A** applies instead of Schedule 3 to a local government reorganisation if—
- (a) the local government reorganisation only provides for 1 or more of the following matters:
 - (i) the establishment of a local board area, including the establishment of a local board for that area: 25
 - (ii) in relation to a local board, other than a local board established under the Local Government (Auckland Council) Act 2009,—
 - (A) the means by which the chairperson is elected; and
 - (B) whether the local board may include appointed members: 30
 - (iii) the abolition of a local board area:
 - (iv) the alteration of the boundaries of a local board area:
 - (v) the union of 2 or more local board areas; and
 - (b) the areas affected, or potentially affected, by each matter are wholly within the district of 1 existing unitary authority. 35

- (4) **Subsections (1) to (3)**, sections 24A to 26A, and Schedules 3 and **3A** do not apply to an alteration of the boundaries of a local board area that is proposed by a unitary authority in accordance with **section 19JAA of the Local Electoral Act 2001**.
- 36 Section 25 amended (Order in Council to give effect to reorganisation plan)** 5
- (1) In section 25(1), after “clause 22C(5) or 33 of Schedule 3”, insert “or **clause 17(5) of Schedule 3A**”.
- (2) In section 25(3)(b), before “must establish”, insert “in the case of a reorganisation plan to which clause 33 of Schedule 3 applies,”. 10
- 37 Section 26A amended (Duties of local authorities in relation to local government reorganisation)**
- In section 26A(5), after “clause 9 of Schedule 3”, insert “or **clause 8 of Schedule 3A**”.
- 38 Section 31A amended (Minister’s expectations of Commission in relation to local government reorganisation)** 15
- (1) In section 31A(1), after “Schedule 3”, insert “or **3A**”.
- (2) In section 31A(4)(b), after “Schedule 3”, insert “or **3A**”.
- 39 Section 35A amended (Application of Official Information Act 1982)**
- (1) In section 35A(1)(b), after “Part 1 of Schedule 3”, insert “or **Part 1 of Schedule 3A**”. 20
- (2) In section 35A(1)(c), after “clause 22C of Schedule 3”, insert “or **clause 17 of Schedule 3A**”.
- 40 Section 97 amended (Certain decisions to be taken only if provided for in long-term plan)** 25
- In section 97(3)(a), after “clause 22A of Schedule 3”, insert “or **clause 15 of Schedule 3A**”.
- 41 Section 225 amended (Offences relating to waterworks)**
- In section 225(2) and (3), delete “or (e)”.
- 42 Schedule 3 amended** 30
- In Schedule 3, clause 22A(2), delete “that clause and”.
- 43 New Schedule 3A inserted**
- After Schedule 3, insert the **Schedule 3A** set out in **Schedule 3** of this Act.

44 Schedule 7 amended

- (1) In Schedule 7, clause 19(5), replace “22 or 22A” with “**21A**, 22, or 22A”.
- (2) In Schedule 7, replace clause 21(1) with:
 - (1) The first meeting of a local authority following a triennial general election must be called by the chief executive as soon as practicable after the date by which a candidate may apply for a recount has passed and—
 - (a) the results of the election are known; or
 - (b) if an application for a recount is filed by a candidate or the electoral officer, the recount has been completed and the candidates to be declared elected are known.
- (3) In Schedule 7, clause 21(5)(d), replace “first meeting” with “next meeting”.
- (4) In Schedule 7, after clause 21(5), insert:
 - (6) However, if an urgent meeting of the local authority has been held under **clause 21A**, the business that must be conducted at the first meeting of the local authority does not include any business already dealt with at that urgent meeting.
 - (7) In this clause, **first meeting** does not include any urgent meeting held under **clause 21A**.
- (5) In Schedule 7, after clause 21, insert:
 - 21A Chief executive may call urgent meeting following triennial general election of members**
 - (1) This clause applies if—
 - (a) an application for a recount has been made following a triennial general election of members of a local authority; and
 - (b) an event occurs that, in the opinion of the chief executive, requires the local authority to deal with a matter urgently; and
 - (c) the first meeting of the local authority has not yet been called under **clause 21(1)**.
 - (2) Despite **clause 21(1)(b)**, the chief executive may call an urgent meeting of the local authority before the candidates to be declared elected after a recount are known.
 - (3) If the chief executive calls an urgent meeting under **subclause (2)**, the chief executive must—
 - (a) give notice of the urgent meeting as soon as practicable to every person who—
 - (i) is not an affected candidate; and
 - (ii) has been declared to be elected to the local authority; and

- (b) give notice to each of those persons, by whatever means is reasonable in the circumstances and at least 24 hours before the time appointed for the meeting, of—
 - (i) the time and place of the urgent meeting; and
 - (ii) the matter in respect of which the urgent meeting is being called. 5
 - (4) For the purposes of section 46 of the Local Government Official Information and Meetings Act 1987, an urgent meeting that is called by the chief executive under this clause is to be treated as if it were an emergency meeting called by the local authority.
 - (5) For the purposes of this clause and **clause 21B**, a candidate is an **affected candidate** if— 10
 - (a) the candidate may be affected by the recount; or
 - (b) the recount has determined that an equal number of votes has been received by the candidate and 1 or more other candidates in the election and the electoral officer has not declared, or determined, which candidate is to be elected to the local authority. 15
- 21B Conduct of urgent meeting**
- (1) The business to be conducted at an urgent meeting called under **clause 21A**—
 - (a) must include the following matters:
 - (i) in respect of the persons described in **clause 21A(3)(a)**, the making and attesting of the declarations required of the mayor (if any) and members under clause 14: 20
 - (ii) the general explanation described in clause 21(5)(c):
 - (iii) the matter in respect of which the urgent meeting is being called; and 25
 - (b) may include the election of a member to preside at the urgent meeting; but
 - (c) must not include any other matter.
 - (2) However, 1 or both of the matters described in subclause (1)(a)(i) and (ii) may be omitted from the business to be conducted at an urgent meeting if the matter was dealt with at a previous urgent meeting. 30
 - (3) An affected office is to be treated as a vacancy in the membership of the local authority for the meeting.
 - (4) The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting unless and until— 35
 - (a) the mayor (if any) has made and attested the declaration required under clause 14; or
 - (b) the members that are present have—

- (i) made and attested the declaration required under clause 14; and
 - (ii) elected 1 of their number to preside at the meeting.
- (5) An affected candidate must not participate in the meeting, but may attend the meeting if it is open to the public.
- (6) In this clause, **affected office** means an office as a member of the local authority to which no candidate has been declared to be elected because the relevant candidates are affected candidates.

5

45 **Schedule 10 amended**

In Schedule 10, clause 33(2), replace “this section” with “this clause”.

Part 3

10

Amendment to Local Government (Auckland Council) Act 2009

46 **Principal Act**

This Part amends the Local Government (Auckland Council) Act 2009.

47 **Section 8 amended (Governing body of Auckland Council)**

Replace section 8(1) with:

15

- (1) The governing body of the Auckland Council must comprise—
- (a) a mayor elected in accordance with the Local Electoral Act 2001; and
 - (b) no fewer than 5 other members and no more than 29 other members elected in accordance with the Local Electoral Act 2001.

Schedule 1

New Part 2 inserted into Schedule 1 of Local Electoral Act 2001

s 31(3)

Part 2

Provisions relating to Local Government Electoral Legislation Act 2022

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8 Interpretation

In this Part,—

amendment Act means the Local Government Electoral Legislation Act **2022****commencement date** means the date on which the amendment Act comes into force sections 25 to 29 of the amendment Act come into force.

10

9 Transitional provision relating to certain recounts

The amendments made by **sections 25 to 29** of the amendment Act apply in respect of an election if—

- (a) the electoral officer has given public notice of the election before the commencement date and nominations for the election close after the commencement date; or
- (b) on or after the commencement date, the electoral officer gives public notice under section 52, or fresh public notice under section 120(3), of the election.

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20

Schedule 2

Minor and consequential amendments related to **Part 1**

s 33

Part 1

Minor and consequential amendments to local ~~Act~~ Acts 5

Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001 (2001 No 1 (L))

In section 3, insert in their appropriate alphabetical order:

estimated general electoral population has the same meaning as in section 5(1) of the Local Electoral Act 2001 10

estimated Māori electoral population has the same meaning as in section 5(1) of the Local Electoral Act 2001

In section 6(1), formula,—

- (a) after “Māori electoral population”, insert “or estimated Māori electoral population”; and 15
- (b) after “general electoral population”, insert “or estimated general electoral population”.

Replace section 9(1) with:

- (1) The Government Statistician must, at the request of the Council or, if appropriate, the Local Government Commission, supply the Council or the Commission with— 20
 - (a) a certificate specifying—
 - (i) the Māori electoral population of the region; and
 - (ii) the general electoral population of the region; or
 - (b) a certificate specifying— 25
 - (i) the estimated Māori electoral population of the region; and
 - (ii) the estimated general electoral population of the region.

In section 9(2), replace “the certificate” with “the certificate described in **subsection (1)(a)**”.

Canterbury Regional Council (Ngāi Tahu Representation) Act 2022 (2022 No 1 (L)) 30

In section 14, replace “section 19Z(2) of the Local Electoral Act 2001 (which relates to a resolution to create one or more Māori constituencies)” with “**section 19GA(2) or (4)** of the Local Electoral Act 2001 (which relates to a resolution as to whether the representation arrangements for a regional council should include specific Māori representation)” 35

Part 2

Minor and consequential amendments to secondary legislation

Local Electoral Regulations 2001 (SR 2001/145)

Replace regulation 58(5) with:

- (5) The electoral officer must determine by lot which candidate is to be declared elected if,— 5
- (a) when acting under subclause (3), the electoral officer determines that there is an equality of votes between candidates and the addition of 1 vote would entitle any of those candidates to be declared elected; and
 - (b) after a recount under **section 90A** of the Act has been completed, there is still an equality of votes between candidates; and 10
 - (c) 2 or more of those candidates have not withdrawn as candidates for election under **section 92B** of the Act.
- (6) If the electoral officer makes a determination under **subclause (5)**, the electoral officer must give an amended declaration under section 86 of the Act of the result of the election. 15

After regulation 62(b)(ii), insert:

- (iia) whether the electoral officer applied for a recount under **section 90A** of the Act; and

After regulation 66(1)(a), insert: 20

- (aa) whether the electoral officer applied for a recount under **section 90A** of the Act; and

Replace regulation 79(5) with:

- (5) The electoral officer must determine by lot which candidate is to be declared elected if,— 25
- (a) when acting under subclause (3), the electoral officer determines that there is an equality of votes between candidates and the addition of 1 vote would entitle any of those candidates to be declared elected; and
 - (b) after a recount under **section 90A** of the Act has been completed, there is still an equality of votes between candidates; and 30
 - (c) 2 or more of those candidates have not withdrawn as candidates for election under **section 92B** of the Act.
- (6) If the electoral officer makes a determination under **subclause (5)**, the electoral officer must give an amended declaration under section 86 of the result of the election. 35

After regulation 81(b)(ii), insert:

- (iia) whether the electoral officer applied for a recount under **section 90A** of the Act; and

Local Electoral Regulations 2001 (SR 2001/145)—*continued*

After regulation 84(1)(a), insert:

- (aa) whether the electoral officer applied for a recount under **section 90A** of the Act; and

Schedule 3
New Schedule 3A inserted into Local Government Act 2002

s 43

Schedule 3A
Establishment or reorganisation of local board areas in unitary authority districts

5

s 24

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1	Interpretation	
	In this schedule, unless the context otherwise requires,—	
	affected area ,—	
	(a) in relation to a reorganisation investigation, means an area that—	
	(i) is within the district of a unitary authority; and	5
	(ii) is affected, or potentially affected, by 1 or more of the matters to be investigated; and	
	(b) in relation to a reorganisation initiative or plan, means the area comprising the district of the unitary authority to which the initiative or plan relates	10
	affected elector means—	
	(a) a person who is a residential elector (within the meaning of section 23 of the Local Electoral Act 2001), if the address in respect of which the person is registered is in an affected area:	
	(b) a person who is a ratepayer elector (within the meaning of section 24 of the Local Electoral Act 2001), if the person is qualified as a ratepayer elector in respect of a rating unit in an affected area	15
	affected iwi or hapū means an iwi or a hapū with interests within the affected area, and includes any entity or organisation identified by Te Puni Kōkiri as representing those interests	20
	affected local board area means the area of the local board or proposed local board	
	affected unitary authority means a unitary authority whose district contains an affected area	
	implementation date means the date specified in an Order in Council made under section 25A(1) as the date on which the local government reorganisation described in the order takes effect	25
	investigation request means a request to the Commission by a group comprising at least 10% of electors in an affected area, by a unitary authority, or by the	

Minister, in accordance with **clause 2**, to conduct a reorganisation investigation into an issue or a matter but without proposing a particular reorganisation **public notice**, in relation to a notice of a reorganisation investigation or reorganisation plan given by the Commission,—

- (a) means a notice published—
 - (i) in 1 or more newspapers circulating in the affected area; and
 - (ii) on the Internet site of the Commission; and
- (b) includes any other notice that the Commission thinks desirable in the circumstances

reorganisation initiative or **initiative** means a request to the Commission by a group comprising at least 10% of electors in an affected area, by a unitary authority, or by the Minister, to consider a proposed reorganisation that relates solely to 1 or more of the matters in **section 24(3)**

reorganisation investigation or **investigation** means an investigation by the Commission under **Part 1** of this schedule, in response to a reorganisation initiative or an investigation request, that may result in the development and adoption of a reorganisation plan

reorganisation order means an Order in Council made under section 25

reorganisation plan means a plan that relates solely to 1 or more of the matters in **section 24(3)** and that is—

- (a) adopted by the Commission, during or after an investigation; or
- (b) adopted by a unitary authority in accordance with **clause 15**.

Part 1

Reorganisation investigations

Subpart 1—Reorganisation initiatives and investigation requests

2 Who may propose reorganisation initiatives and request investigations

- (1) A reorganisation initiative may be proposed, or an investigation request may be made, to the Commission by—
 - (a) the affected unitary authority;
 - (b) in the case of an initiative, a group of at least 10% of electors in the affected local board area;
 - (c) in the case of a request, a group of at least 10% of electors in the affected area;
 - (d) the Minister.
- (2) The reorganisation initiative or investigation request must be submitted to the chief executive officer of the Commission.

3 Contents of reorganisation initiative or investigation request

- (1) A reorganisation initiative or an investigation request must include the following:
- (a) the name and address of the person submitting the initiative or request; and 5
 - (b) if the initiative or request is submitted by a group of electors under **clause 2(1)(b) or (c)**,—
 - (i) evidence that the group comprises at least 10% of electors in the affected local board area or affected area; and
 - (ii) the name and address of the person who is the representative of those persons; and 10
 - (c) in the case of an initiative, a description of the proposed changes, including (but not limited to)—
 - (i) which of the matters listed in **section 24(3)(a)** is being sought; and 15
 - (ii) a plan or other description sufficient to identify the affected local board area or affected local board areas concerned; and
 - (iii) an explanation of the outcome that the proposed changes are seeking to achieve; and
 - (d) in the case of an investigation request, a description of the matter, issue, problem, or opportunity to be investigated. 20
- (2) A reorganisation initiative may include—
- (a) any information requested or recommended in any guidelines issued by the Commission; and
 - (b) any other information that demonstrates that the initiative has community support in the affected area; and 25
 - (c) any other information that the person submitting the initiative considers relevant to the Commission's consideration of the initiative.

4 Action on receipt of reorganisation initiative or investigation request

- (1) As soon as practicable after receiving a reorganisation initiative or an investigation request, the Commission must,— 30
- (a) if the initiative or request was submitted by a group of electors, confirm that the group comprises at least 10% of electors in the affected local board area or affected area, as the case may be (and, if not, notify the person who submitted the initiative or request that the Commission will not undertake an investigation); and 35
 - (b) decide whether to undertake an investigation, having regard to the factors listed in **clause 5**; and

	(c) notify the person who submitted the initiative or request, or that person's representative, of its decision; and	
	(d) if the Commission decides not to undertake an investigation, explain the reasons for that decision in the notice under paragraph (c) ; and	
	(e) if the Commission decides to undertake an investigation, notify the affected unitary authority of that decision.	5
(2)	Before making a decision under subclause (1)(b) , the Commission must consult the affected unitary authority and any local board that would be affected by the reorganisation initiative or the requested investigation.	
	Subpart 2—Reorganisation investigations	10
5	Factors Commission must have regard to when deciding whether to undertake reorganisation investigation	
	When deciding whether to undertake a reorganisation investigation under clause 4(1)(b) , the Commission must have regard to—	
	(a) the purpose of reorganisation set out in section 24AA; and	15
	(b) the potential scale and scope of improvements to local governance and services that might result from the investigation; and	
	(c) the potential costs, disruption, and other negative effects on the affected unitary authority, its communities, and any affected local board that may be caused by the investigation; and	20
	(d) any time or other constraints that apply to the opportunity to achieve potential improvements to local governance and services; and	
	(e) the need for urgent resolution of any problem identified by the Commission, or in the investigation request or reorganisation initiative; and	
	(f) the resources available to the Commission to undertake the investigation in a timely manner; and	25
	(g) the likelihood of significant community opposition to any reorganisation that might result from the investigation.	
6	Commission must adopt reorganisation investigation process	
(1)	As soon as practicable after it makes a decision under clause 4(1)(b) to undertake a reorganisation investigation, the Commission must determine and adopt a process for the investigation and record that process in writing.	30
(2)	The process document must set out how the Commission intends to undertake the investigation, including—	
	(a) the matters to be investigated; and	35
	(b) the affected area, the affected unitary authority, and any local board affected by the investigation; and	

- (c) the procedure and timetable for the investigation; and
- (d) each affected iwi or hapū, and how and when they will be given an opportunity to engage with the investigation; and
- (e) the key stakeholders, and how and when they will be given an opportunity to engage with the investigation; and 5
- (f) how and when members of the public will be consulted on the investigation and any proposed recommendations or reorganisation plans that may result; and
- (g) any other matter that the Commission considers relevant.
- (3) In determining the matters referred to in **subclause (2)**, and in undertaking an investigation, the Commission must have regard to the following principles: 10
 - (a) early information should be available to the public and stakeholders about the issues to be investigated, the process to be followed, and the opportunities for public input; and
 - (b) the process should be in proportion to the scale, scope, and potential impact of the identified issues and of any reorganisation plan that may result from the investigation; and 15
 - (c) the process should recognise the relevant evidence and information that the Commission already holds; and
 - (d) the process should recognise and reflect the nature and extent of the interests of affected iwi or hapū in the outcome of the investigation; and 20
 - (e) the process should provide persons, entities, and organisations who wish to have their views on the subject matter of the investigation considered by the Commission with a reasonable opportunity to present those views to the Commission; and 25
 - (f) the extent and nature of public and stakeholder engagement should—
 - (i) reflect the degree of public interest (including of each affected iwi or hapū) in the issues and in any reorganisation plan that may result from the investigation; and
 - (ii) reflect the importance of— 30
 - (A) stakeholder input; and
 - (B) community engagement; and
 - (C) public acceptance of the process and the potential outcome; and
 - (iii) appropriately balance the costs and benefits of different processes. 35
- (4) Before adopting a process document under **subclause (1)**, the Commission must—
 - (a) consult the affected unitary authority and any affected local board on the proposed process or amendment; and

- (b) consult all affected iwi or hapū about whether, and how, the proposed reorganisation investigation, or any reorganisation plan that may result from the investigation, may affect their relationship with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga, or affect their relationships with local authorities. 5
- (5) The Commission may adopt an amendment to a process document under **sub-clause (1)** at any time, and must do so if there is a significant departure from the process.
- (6) The Commission must, as soon as practicable after adopting or amending a process document,— 10
- (a) publish the process document in full on its Internet site; and
- (b) give public notice within the affected area of the publication and location of the process document; and
- (c) notify the affected ~~unity~~ unitary authority and all affected local boards, affected iwi or hapū, and key stakeholders identified by the Commission of the publication and location of the process document. 15
- 7 Commission may require assistance and undertake inquiries when conducting investigations and preparing reorganisation plan**
- (1) In conducting an investigation or preparing a reorganisation plan, the Commission may require the affected unitary authority and any affected local boards to provide information to assist the Commission. 20
- (2) In conducting an investigation or preparing a reorganisation plan, the Commission may undertake inquiries and consultation in relation to the investigation or plan with any persons, bodies, and groups that it considers appropriate.
- 8 Commission may issue report** 25
- (1) The Commission may, at any time during a reorganisation investigation, or at the completion of the investigation, issue a report and make recommendations to a unitary authority on any matter arising in the course of, or ancillary to, the investigation.
- (2) Section 26A applies to a report and recommendations under this clause. 30
- 9 Objectives that Commission must consider in reorganisation investigation**
- In assessing the desirability of options for the reorganisation of local government within the affected area, the Commission must take into account how best to achieve all of the following:
- (a) enabling democratic decision making by, and on behalf of, communities within the local board area: 35
- (b) better enabling the purpose of local government to be given effect to within the local board area:
- (c) efficiencies and cost savings:

	(d) assurance that a local board has the resources necessary to enable it to effectively perform or exercise its responsibilities, duties, and powers in respect of any local board area established or changed:	
	(e) effective responses to the opportunities, needs, and circumstances of the affected areas:	5
	(f) better alignment of local board areas with communities of interest:	
	(g) enhanced effectiveness of decision making for non-regulatory activities of a unitary authority:	
	(h) enhanced ability of local government to meet the changing needs of communities for governance and services into the future:	10
	(i) effective provision for any co-governance and co-management arrangements that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations.	
10	Completion of investigation	15
	As soon as practicable after completing an investigation, the Commission must—	
	(a) give public notice of the completion of the investigation; and	
	(b) notify the affected unitary authority and all affected local boards, affected iwi or hapū, and key stakeholders of the completion of the investigation; and	20
	(c) record the completion of the investigation on its Internet site.	
	Part 2	
	Reorganisation plans	
	Subpart 1—Adoption and notification of reorganisation plan	25
11	Commission may adopt reorganisation plan	
(1)	The Commission may, during or at the completion of a reorganisation investigation,—	
	(a) develop 1 or more reorganisation plans; and	
	(b) adopt 1 or more reorganisation plans that meet the requirements of sub-part 2 of this Part.	30
(2)	In deciding whether to adopt a reorganisation plan, the Commission must have regard to—	
	(a) the scale of the potential benefits of the proposed changes in terms of the objectives set out in clause 9 and the likelihood of those benefits being realised; and	35

- (b) the financial, disruption, and opportunity costs of implementing the proposed changes at the proposed time; and
 - (c) the risks and consequences of not implementing the proposed changes at the proposed time; and
 - (d) existing communities of interest and the extent to which the proposed changes will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them; and 5
 - (e) the degree and distribution of demonstrable public support for the proposed changes within communities in the affected area; and
 - (f) the degree and distribution of any public opposition to the proposed changes within communities in the affected area. 10
- (3) The Commission must not adopt a reorganisation plan under this clause that affects the application of any Act that establishes co-governance or co-management arrangements between local authorities and iwi or Māori organisations (including Treaty of Waitangi claims settlement legislation), without first consulting all iwi or Māori organisations to whom that Act applies, the Attorney-General, and the Minister for Treaty of Waitangi Negotiations. 15
- (4) A reorganisation plan to which **subclause (3)** applies must provide for the same level and scope of participation in decision making by iwi or Māori organisations as the arrangement specified in the Act referred to in that subclause. 20
- 12 Notification of reorganisation plan**
- (1) As soon as practicable after adopting a reorganisation plan, the Commission must—
- (a) give public notice of the plan and, in the notice, specify where copies of the plan may be inspected; and 25
 - (b) take any other action that it considers necessary to inform persons, bodies, and groups that the Commission identifies as having an interest in the plan.
- (2) The Commission must attach to the reorganisation plan a full and detailed statement that— 30
- (a) explains how the plan will achieve the objectives set out in **clause 9**; and
 - (b) provides a balanced assessment of the reorganisation plan and outlines the advantages and disadvantages of the plan. 35

Subpart 2—Content of reorganisation plans

13 Content of reorganisation plan

- (1) Before adopting a reorganisation plan under **clause 11**, the Commission must ensure that the plan complies with the requirements in this clause.
- (2) Provisions for local boards must be consistent with subpart 1A of Part 4 of this Act. 5
- (3) The reorganisation plan must specify—
 - (a) the name of the district of the unitary authority; and
 - (b) the number and names of local board areas within the district; and
 - (c) the boundaries of— 10
 - (i) each local board area; and
 - (ii) electoral subdivisions, if any, of each local board area; and
 - (d) the number of elected members of the local board for each local board area and, if a local board area is subdivided for electoral purposes, the number of members to be elected by the electors of each subdivision; 15
 and
 - (e) whether each local board may include members appointed by the governing body of the unitary authority in accordance with section 48E(b); and
 - (f) for each local board, whether the chairperson of the local board is to be— 20
 - (i) elected by the members of the local board from among themselves using one of the systems of voting set out in clause 25(3) and (4) of Schedule 7; or
 - (ii) directly elected to that office by the electors of the local board area. 25
- (4) **Subclause (3)(e) and (f)** is subject to any requirements in other enactments that relate to 1 or more of the following matters:
 - (a) the election or appointment of members of a local board:
 - (b) the election of the chairperson of a local board. 30
- (5) In determining the matters referred to in **subclause (3)(b) to (e)**, the Commission must ensure that—
 - (a) the boundaries of the local board areas will—
 - (i) enable democratic local decision making by, and on behalf of, communities throughout the district; and 35
 - (ii) enable equitable provision to be made for the current and future well-being of all communities within the affected area; and

- (b) the boundaries of local board areas and any subdivisions of those areas coincide with boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
- (c) so far as practicable, local board area boundaries coincide with ward boundaries.

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14 Representation

In determining the representation arrangements of an affected unitary authority for a reorganisation plan, the Commission must—

- (a) have regard to the existing electoral and representation arrangements of the affected unitary authority in respect of local boards; and
- (b) provide fair and effective representation for individuals and communities in the local board areas within the district of the unitary authority; and
- (c) comply with the requirements of the Local Electoral Act 2001; and
- (d) take into account the responsibilities, duties, and powers of the unitary authority.

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Subpart 3—Unitary authority-led reorganisation applications

15 Unitary authority may develop and adopt reorganisation plan

- (1) A unitary authority may develop and adopt a reorganisation plan in accordance with this clause.
- (2) **Subparts 1 and 2** of this Part apply to every reorganisation plan developed under **subclause (1)** as if references to the Commission in those subparts were references to the unitary authority developing the plan.
- (3) A unitary authority intending to develop a reorganisation plan under this clause must ensure that written notice of that intention is given to the Commission as soon as is reasonably practicable.

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16 Application to Commission

- (1) A unitary authority may submit a reorganisation plan adopted under **clause 15** to the Commission in accordance with this clause (a **unitary authority-led reorganisation application**).
- (2) Before submitting a unitary authority-led reorganisation application, the unitary authority must consider any views and preferences expressed by any local boards that would be affected by the reorganisation plan.
- (3) The reorganisation plan must be accompanied by—
 - (a) a statement that complies with **clause 12(2)**; and
 - (b) a report from the affected unitary authority, adopted by that unitary authority, that records—

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	(i) unconditional support for the plan from the governing body of the unitary authority; and (ii) any views and preferences expressed by any local boards that would be affected by the reorganisation plan; and (iii) the public consultation undertaken by the unitary authority; and (iv) the themes and outcomes of that consultation.	5
17	Commission review of unitary authority-led reorganisation application	
(1)	As soon as practicable after receiving a unitary authority-led reorganisation application submitted in accordance with clause 16 , the Commission must review that application.	10
(2)	The Commission must approve the reorganisation plan to which the application relates unless—	
(a)	the reorganisation plan is not accompanied by the documentation required by clause 16 ; or	
(b)	the Commission considers, on reasonable grounds, that—	15
(i)	the provisions in subparts 1 and 2 of this Part were not complied with in developing the plan, as required by clause 15(2) ; or	
(ii)	the unitary authority has not complied with clause 16(2) ; or	
(iii)	the plan does not have the support of affected communities.	
(3)	The Commission must not approve the reorganisation plan if subclause (2)(a) or (b) applies.	20
(4)	If the Commission approves a reorganisation plan under this clause, Part 3 of this schedule applies as if the plan were adopted under clause 11 .	
(5)	As soon as practicable after the Commission approves a reorganisation plan under this clause,—	25
(a)	the Commission must notify the affected unitary authority of its decision; and	
(b)	the Minister must determine whether to recommend the making of an Order in Council under section 25.	
(6)	If the Commission does not approve a reorganisation plan under this clause, the Commission—	30
(a)	must notify the affected unitary authority of its decision and the reasons for it; and	
(b)	may undertake an investigation into any matter related to the content of the unitary authority-led reorganisation application.	35

Part 3

Implementation and effect of reorganisations

18 Former local board areas

- (1) This clause applies in relation to implementing a reorganisation plan that—
 - (a) is given effect to by an Order in Council under section 25(1); and 5
 - (b) specifies alterations to the boundaries of local board areas that result in a local board area including an area (a **former local board area**) that formerly comprised or formed part of a separate local board area.
- (2) **Subclause (3)** applies unless a reorganisation order modifies its application to a reorganisation or declares that it does not apply to a reorganisation. 10
- (3) The local board that assumes jurisdiction over a former local board area has, may exercise or perform, and is responsible for all the powers, duties, acts of authority, and responsibilities that were previously exercised or performed by the local board of that area in relation to that area, or that would have been exercised or performed by it if it had remained in existence or responsible for that area. 15

19 Local board area bylaws

- (1) The provisions of this clause apply unless a reorganisation order modifies their application to a reorganisation or declares that they do not apply to a reorganisation. 20
- (2) **Subclause (3)** applies to local board area bylaws that—
 - (a) are in force in all or part of a local board area that, under a reorganisation order, is included in the jurisdiction of a local board other than the local board that proposed them; and
 - (b) are in force immediately before the implementation date; and 25
 - (c) are not excluded from the application of this clause by the reorganisation order.
- (3) Each local board area bylaw remains in force, in the area to which it applied immediately before the commencement of the reorganisation order, until it expires or is revoked or amended by the unitary authority for the district that includes that area. 30
- (4) In this clause,—

bylaw includes—

 - (a) a set of bylaws; and
 - (b) an individual bylaw in a set of bylaws; and 35
 - (c) a provision within an individual bylaw

local board area bylaw means a bylaw that applies only in, or only in any part of, a local board area.

Legislative history

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