Version
as at 31 July 2024

Local Government Electoral Legislation Act 2023

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Date of assent	30 August 2023
Commencement	see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Department of Internal Affairs.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Electoral Legislation Act 2023.

2 Commencement

(1) Except as provided in subsections (2) and (3), this Act comes into force on the day after the date on which it receives the Royal assent.

(2) Section 49(6) (which relates to local government members attending meetings remotely counting as present) comes into force on 1 October 2024.

(3) *[Repealed]*

Section 2(3): repealed, on 31 July 2024, by section 19 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Part 1
Amendments to Local Electoral Act 2001

3 Principal Act

This Part amends the Local Electoral Act 2001.

4 Section 5 amended (Interpretation)

(1) 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

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—

(a) by ascertaining a proportion determined by dividing—

(i) the total number of persons, on the assessment date,—

(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 the assessment date,—

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

(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 the assessment date

unitary authority has the meaning given in section 5(1) of the Local Government Act 2002

(2) *[Repealed]*

Section 4(2): repealed, on 31 July 2024, by section 20 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

5 Section 9 amended (Holding of referendum)

[Repealed]

Section 5: repealed, on 31 July 2024, by section 21 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

6 Section 19C amended (Basis of election of members of territorial authority)

[Repealed]

Section 6: repealed, on 31 July 2024, by section 21 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

7 Section 19E amended (Basis of election of members of regional council)

[Repealed]

Section 7: repealed, on 31 July 2024, by section 21 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

8 New sections 19GA and 19GB inserted

[Repealed]

Section 8: repealed, on 31 July 2024, by section 21 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

9 Section 19H amended (Review of representation arrangements for elections of territorial authorities)

[Repealed]

Section 9: repealed, on 31 July 2024, by section 21 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

10 Section 19I amended (Review of representation arrangements for elections of regional councils)

[Repealed]

Section 10: repealed, on 31 July 2024, by section 21 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

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

(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—

(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—

(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

(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:

(b) apply different population transfer limits in different circumstances:

(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.

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 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.

(2) *[Repealed]*

(3) In section 19K(2), replace "If any resolution under section 19H or section 19I or section 19J proposes any change to the basis of 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 election, membership, or boundaries of wards, constituencies, communities, local board areas, or subdivisions of local board areas".

(4) 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).

(5) *[Repealed]*

Section 12(2): repealed, on 31 July 2024, by section 22 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 12(5): repealed, on 31 July 2024, by section 22 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

13 Section 19L amended (Distribution of copies of resolution)

(1) In section 19L, replace "section 19H or section 19I or section 19J" with "section 19H, 19I, 19J, or 19JAA".

(2) *[Repealed]*

Section 13(2): repealed, on 31 July 2024, by section 23 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

14 Section 19M amended (Public notice of proposals and responsibilities in relation to submissions)

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 "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".

(2) In section 19O(2)(b), replace "20 December" with "3 December".

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".

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".

(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) *[Repealed]*

(2) *[Repealed]*

(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.

Section 19(1): repealed, on 31 July 2024, by section 24 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 19(2): repealed, on 31 July 2024, by section 24 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

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)

[Repealed]

Section 20: repealed, on 31 July 2024, by section 25 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

21 Section 19U amended (Requirement for effective representation and other factors in determination of membership and basis of election of regional council)

[Repealed]

Section 21: repealed, on 31 July 2024, by section 25 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

22 Section 19Z and cross-heading repealed

[Repealed]

Section 22: repealed, on 31 July 2024, by section 25 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

23 Section 19ZH repealed (Basis of election of territorial authority and regional council)

[Repealed]

Section 23: repealed, on 31 July 2024, by section 25 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

24 Section 28 amended (Public notice of right to demand poll on electoral system)

In section 28(2A), replace "21 May" with "14 March".

25 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".

(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".

26 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".

(2) In section 31(3)(a), replace "as soon as is practicable" with "within 2 working days after the resolution is made".

27 Section 33 amended (Poll of electors)

In section 33(4), replace "21 May" with "14 March".

28 Section 34 amended (Effect of poll)

In section 34(1), replace "21 May" with "14 March".

29 Section 55 amended (Nomination of candidates)

In section 55(3), delete ", if the person nominated is outside New Zealand".

30 Part 4 heading replaced

Replace the Part 4 heading with:

Part 4
Recounts and inquiries

31 Section 90 amended (Application for recount)

(1) In the heading to section 90, after "**Application**", insert "**by candidate**".

(2) In section 90(1), replace "3 days" with "3 working days".

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

After section 90, insert:

90A Application by electoral officer for recount

(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.

33 Section 92 amended (Conduct of recount)

Repeal section 92(4).

34 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.

(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

(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) An affected candidate may withdraw as a candidate for election by giving notice in writing (a **notice of withdrawal**) to the electoral officer within 3 working days after the recount.

(3) A notice of withdrawal may be submitted by hand, post, fax, or electronic transmission.

(4) If the electoral officer receives a notice of withdrawal from an affected candidate in accordance with subsections (2) and (3), that candidate ceases to be available for election.

(5) 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 (2) and (3); and

(b) the notice of withdrawal given by the relevant affected candidate was the notice received last by the electoral officer.

(6) If only 1 candidate remains available for election 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.

35 Section 148 amended (Validation of irregularities)

In section 148, replace the compare note with:

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

36 Schedule 1 amended

(1) *[Repealed]*

(2) *[Repealed]*

(3) In Schedule 1,—

(a) insert the Part set out in Schedule 1 of this Act as the last Part; and

(b) make all necessary consequential amendments.

Section 36(1): repealed, on 31 July 2024, by section 26 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 36(2): repealed, on 31 July 2024, by section 26 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

37 Schedule 1A amended

(1) *[Repealed]*

(2) In Schedule 1A, clauses 1(1) and 3(1), replace "31 August" with "31 July".

(3) *[Repealed]*

(4) In Schedule 1A, clauses 2(1) and 4(1), formulas,—

(a) after "Māori electoral population", insert "or estimated Māori electoral population"; and

(b) after "general electoral population", insert "or estimated general electoral population".

(5) *[Repealed]*

(6) *[Repealed]*

(7) In Schedule 1A, clause 6(a)(i) and (ii), after "Māori electoral population", insert "or estimated Māori electoral population".

(8) *[Repealed]*

(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:

(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

(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.

(12) In Schedule 1A, clause 7(2), replace "the certificate" with "the certificate described in subclause (1)(a)".

Section 37(1): repealed, on 31 July 2024, by section 27 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 37(3): repealed, on 31 July 2024, by section 27 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 37(5): repealed, on 31 July 2024, by section 27 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 37(6): repealed, on 31 July 2024, by section 27 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Section 37(8): repealed, on 31 July 2024, by section 27 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

38 Minor and consequential amendments related to this Part

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

Part 2
Amendments to Local Government Act 2002

39 Principal Act

This Part amends the Local Government Act 2002.

40 Section 24 amended (Scope of local government reorganisation)

After section 24(2), insert:

(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:

(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:

(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.

(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.

41 Section 25 amended (Order in Council to give effect to reorganisation plan)

(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,".

42 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".

43 Section 31A amended (Minister's expectations of Commission in relation to local government reorganisation)

(1) In section 31A(1), after "Schedule 3", insert "or 3A".

(2) In section 31A(4)(b), after "Schedule 3", insert "or 3A".

44 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".

(2) In section 35A(1)(c), after "clause 22C of Schedule 3", insert "or clause 17 of Schedule 3A".

45 Section 97 amended (Certain decisions to be taken only if provided for in long-term plan)

In section 97(3)(a), after "clause 22A of Schedule 3", insert "or clause 15 of Schedule 3A".

46 Section 225 amended (Offences relating to waterworks)

In section 225(2) and (3), delete "or (e)".

47 Schedule 3 amended

In Schedule 3, clause 22A(2), delete "that clause and".

48 New Schedule 3A inserted

After Schedule 3, insert the Schedule 3A set out in Schedule 3 of this Act.

49 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.

(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—

(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.

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:

(ii) the general explanation described in clause 21(5)(c):

(iii) the matter in respect of which the urgent meeting is being called; and

(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.

(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—

(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.

(6) In Schedule 7, replace clause 25A(4) with:

(4) A member of the local authority or committee who attends a meeting by means of audio link or audiovisual link, in accordance with this clause, is to be counted as present for the purposes of clause 23.

(7) In Schedule 7, heading to clause 25B, replace "**1 April 2024**" with "**30 September 2024**".

(8) In Schedule 7, clause 25B(7), replace "the close of 1 October 2024" with "1 October 2024".

50 Schedule 10 amended

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

Part 3
Amendment to Local Government (Auckland Council) Act 2009

51 Principal Act

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

52 Section 8 amended (Governing body of Auckland Council)

Replace section 8(1) with:

(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 36(3)

Part 2
Provisions relating to Local Government Electoral Legislation Act 2023

8 Interpretation

In this Part,—

amendment Act means the Local Government Electoral Legislation Act 2023

commencement date means the date on which sections 30 to 34 of the amendment Act come into force.

9 Transitional provision relating to certain recounts

The amendments made by sections 30 to 34 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.

Schedule 2
Minor and consequential amendments related to Part 1

s 38

Part 1
Minor and consequential amendments to local Acts

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

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

(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—

  (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—

    (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)".

Schedule 2 Part 1: amended, on 31 July 2024, by section 28 of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28).

Part 2
Minor and consequential amendments to secondary legislation

Local Electoral Regulations 2001 (SR 2001/145)

Replace regulation 58(5) with:

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

(5) The electoral officer must determine by lot which candidate is to be declared elected if,—

(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

(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.

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:

(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,—

(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

(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.

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

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

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 48

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

s 24

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Part 3
Implementation and effect of reorganisations

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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

(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

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

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

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

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

(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

(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

(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.

(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

(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,—

(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

(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.

(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

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

(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

(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

(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.

(2) The process document must set out how the Commission intends to undertake the investigation, including—

(a) the matters to be investigated; and

(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

(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:

(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

(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

(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

(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—

(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.

(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) The Commission may adopt an amendment to a process document under subclause (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,—

(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 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.

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.

(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

(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.

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:

(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:

(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:

(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

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

(c) record the completion of the investigation on its Internet site.

Part 2
Reorganisation plans

Subpart 1—Adoption and notification of reorganisation plan

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 subpart 2 of this Part.

(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

(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

(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.

(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.

(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.

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

(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—

(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.

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.

(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—

(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; 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—

(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.

(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.

(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

(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.

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.

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.

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—

(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.

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.

(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—

(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.

(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,—

(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—

(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.

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

(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.

(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.

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.

(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

(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.

(4) In this clause,—

bylaw includes—

(a) a set of bylaws; and

(b) an individual bylaw in a set of bylaws; and

(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.

Notes

1 General

This is a consolidation of the Local Government Electoral Legislation Act 2023 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (2024 No 28): Part 2

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