

Local Democracy Integrity Bill

Government Bill

Explanatory note

General policy statement

This is an omnibus Bill introduced under Standing Order 267(1)(a) (dealing with an interrelated topic that can be regarded as implementing a single broad policy).

The single broad policy and purpose of this bill is to improve the integrity of local democracy by improving the processes by which individuals and communities are represented through, and can participate in, local government elections. The policy proposals include—

- providing local authorities (**councils**) with a revised and simplified process for deciding their representation arrangements in regards to required specific Māori representation:
- universalising the system of Single Transferable Vote to be used in all local elections in line with the recommendations of the Justice Committee:
- changing the current restriction on the number of councillors on Auckland Council:
- simplifying the process for unitary authorities to adjust local board boundaries:
- updating the process for when an election result is tied:
- enabling all candidates to submit nominations:
- providing for local elections to be operated by the Electoral Commission via electoral officers appointed for that purpose.

This bill amends the following Acts:

- Local Electoral Act 2001:
- Local Government Act 2002:
- Local Government (Auckland Council) Act 2009.

It also makes minor and consequential amendments 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 2001.

This Bill is a heavily modified version of the Local Government Electoral Legislation Bill written by the Hon. Nanaia Mahuta.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force the day after the date on which this Bill receives the Royal assent.

Part 1

Amendments to Local Electoral Act 2001

Clause 3 provides that *Part 1* amends the Local Electoral Act 2001 (the **Act**).

Clause 4 amends section 3(c) of the Act, to remove provisions relating to the changing of electoral systems that are no longer present in the Act.

Clause 5 amends section 5, which relates to the interpretation of the Act, by inserting new definitions. The new definitions relate to other amendments that the Bill makes to Part 1A and Schedule 1A of the Act.

Clause 6 amends section 9 of the Act. Section 9 allows a local authority to direct the electoral officer to conduct a referendum on any matter relating to the local authority's services or policies or any proposal relating to the local authority's activities or objectives or the well-being of its local government area. The amendment provides that a referendum relating to a review of representation arrangements, particularly in regard to specific Māori representation, is not binding on a local authority.

Clause 7 amends section 12 of the Act. Section 12 provides that an electoral officer must be appointed by the local authority for the conduct of elections and polls of the electors within the district of that local authority. The amendment provides that the electoral officer required by the Act would instead be appointed by the Electoral Commission, and is also considered an electoral official under the Electoral Act 1993. The purpose of this amendment is to confer the sole power to conduct elections onto the Electoral Commission, in line with the recommendations of the Justice Committee.

Clause 8 amends Section 19AB of the Act. Section 19AB provides that programs intended for use in the conduct of elections be certified by the Secretary for Local Government. The amendment confers the sole power to certify electoral programs onto the Electoral Commission.

Clauses 9 and 10 amend sections 19C and 19E of the Act, which relate to the basis of elections of members of a territorial authority and members of a regional council. The amendments re-enact section 19ZH and provide that the other provisions of Part 1A (other than sections 19B, 19G, and 19J) are subject to Schedule 1A if a district is to be divided into 1 or more Māori wards or Māori constituencies for a triennial general election. The purpose of moving the provisions

from section 19ZH is to place them closer to other provisions that deal with electing members to represent wards or constituencies.

Clause 11 inserts new sections 19GA and 19GB.

New section 19GA deals with resolutions by territorial authorities and regional councils about whether representation arrangements should include members who are only elected by electors who are on the Māori electoral roll (**specific Māori representation**). *New section 19GA(1)* and *(2)* requires territorial authorities and regional councils to resolve, if their representation arrangements do not already include specific Māori representation, that their representation arrangements should include specific Māori representation, before reviewing representation arrangements under section 19H and 19I. *New section 19GA(3) to (5)* set requirements that such a resolution must be made 2 years earlier than the next triennial general election, that public notice must be given of the resolution, and provide that the section does not apply if another enactment already requires specific Māori representation in that territorial authority or regional council's representation arrangements.

New section 19GB deals with the effect of a resolution under *new section 19GA* relating to specific Māori representation. If a territorial authority or regional council is required to resolve that representation arrangements should include specific Māori representation, upon said resolution the subsequent review of representation arrangements must include a proposal to establish 1 or more Māori wards or Māori constituencies and 1 or more general wards or general constituencies. In addition, the proposed number of members of the territorial authority or regional council must be sufficient to allow for 1 or more Māori ward members or Māori constituency members.

Clauses 12 and 13 amend section 19H and 19I of the Act, which require territorial authorities and regional councils to review representation arrangements and determine certain matters. Territorial authorities and regional councils were required to make the first determination of those matters in either 2003 or 2006 and are required to make subsequent determinations at least once in every period of 6 years after the year in which the first determination was made. *Clauses 12(1)* and *13(1)* identify the matters under clauses 1 and 3 of Schedule 1A that must be determined when a territorial authority or regional council has made a required resolution under *new section 19GA* that the representation arrangements should include specific Māori representation. *Clauses 12(2)* and *13(2)* change the timing requirement for subsequent determinations by setting the start of each 6-year period by reference to the year in which the territorial authority or regional authority made its previous determination, instead of the year of the first determination. *Clauses 12(3)* and *13(3)* make consequential amendments to sections 19H(3) and 19I(3).

Clause 14 inserts *new section 19JAA*. *New section 19JAA* allows a unitary authority, in certain situations, to propose changes to the boundaries of local board areas within its district as part of a

review of representation arrangements. The requirements for the proposed boundary changes include that the population affected by those changes must not exceed the population transfer limit, which will be set by regulations. A unitary authority can choose to use the procedures for local government reorganisation under the Local Government Act 2002 to change the boundaries of local board areas instead of proposing boundary changes through a review of representation arrangements.

Clause 15 amends section 19K of the Act, which sets out the requirements that apply to resolutions relating to reviews of representation arrangements. The amendments extend these requirements to resolutions made under *new section 19JAA* and change the time frame for making resolutions that affect the next triennial general election of members of a territorial authority, regional council, local board, or community board. If a district or region is not already divided into 1 or more Māori wards or Māori constituencies, when the territorial authority or regional council has made the resolution required under *new section 19GA*, the time frame for making the resolutions relating to reviews of representation arrangements begins earlier. In that situation, the resolutions can be made as soon as the territorial authority or regional council has given public notice of the resolution about specific Māori representation.

Clauses 16 to 22 amend sections 19L to 19R of the Act. Sections 19L to 19R provide requirements in relation to the following matters:

- distribution of copies of resolutions made by a territorial authority or regional council under 19H, 19I, or 19J:
- public notification of the proposals in the resolutions:
- submissions on the proposals
- appeals against the proposals
- objections to any amended proposals.

The amendments extend those requirements to resolutions made under *new section 19JAA* and also change the time frame within a territorial authority or regional council must consider submissions and give public notice of its proposals. The new time frame ends on 20 November of the year that is immediately before the next triennial general election, instead of 6 weeks after the close of the period for making submissions.

Clauses 23 and 24 amend sections 19T and 19U of the Act to reflect amendments made by *clauses 9 and 10* to sections 19H and 19I of the act.

Clause 25 repeals section 19Z of the Act and the cross-heading above it, as it is re-enacted by other clauses in this Bill.

Clause 26 repeals section 19ZH of the Act, as it is re-enacted by other clauses in this Bill.

Clause 27 repeals section 24 of the Act. Section 24 classifies individuals as electors purely on the basis of owning property in the district of a local authority, which effectively allows property owners to vote multiple times and in places they do not live.

Clause 28 replaces section 27 of the Act. Section 27 empowers local authorities to change their electoral system. The replacement section 27 implements the recommendations of the Justice Committee by empowering a change to universalising the Single Transferable Voting electoral system for the sake of accurately representing all votes cast in local elections and for the sake of simplicity and uniformity in local elections. Replacement section 27(1) requires that local authorities must resolve to use the Single Transferable Voting electoral system for all future triennial general elections if they do not already use the Single Transferable Voting electoral system. Replacement section 27(2) provides that a resolution under section 27(1) takes effect for all future triennial general elections and continues in effect indefinitely. Replacement section 27(3) re-enacts section 27(3) of the original Act. Replacement section 27(4) states that local authorities may not resolve to change electoral systems if they already use the Single Transferable Voting electoral system, and replacement section 27(5) clarifies that the entirety of the replacement section applies to all unitary authorities.

Clause 28B(2) requires amendments to be made to the Act to aid in the implementation of the replacement section 27.

Clause 29 repeals section 28 to 35 of the Act. Sections 28 to 35 related to polls of electors in relation to local electoral systems, and were implemented to enable the transfer from First Past The Post electoral systems to Single Transferable Voting systems if the electors of a local authority demonstrated desire to do so through a referendum. As *Clause 28* provides for all local authorities to transition to Single Transferable Voting as their electoral system, these sections are no longer relevant.

Clause 30 amends section 55 of the Act to allow an electoral officer to approve the manner in which a person in New Zealand who is being nominated as a candidate can give the required consent and certification for their nomination. Section 55 currently requires a person who is in New Zealand to give that consent and certification in writing.

Clause 31 amends the heading to Part 4 of the Act to reflect that some recounts will not relate to disputed elections.

Clause 32 amends section 90 of the Act. The amendments change the deadline for a candidate's application for a recount to 3 working days, instead of 3 days, after the public declaration of the number of votes received. The amendments also change the heading to section 90 to reflect that this section relates to an application by a candidate.

Clause 33 inserts *new section 90A*. *New section 90A* requires an electoral officer to apply for a recount if 2 or more candidates receive the same number of votes in an election. The application must be made before the official results are declared.

Clause 34 repeals section 92(4) of the Act as this provision is moved into *new section 92A*.

Clause 35 inserts *new sections 92A and 92B*. *New section 92A* re-enacts section 92(4) and provides that a District Court Judge may order the local authority to pay for costs if a local electoral officer applied for a recount and the Judge considers it would be just and reasonable for the local authority to pay for costs. *New section 92B* allows a candidate to withdraw from the election if votes are still tied after a recount, and sets out the manner and deadline for withdrawing as a candidate.

Clause 36 amends section 148 of the Act to correct an error in the compare note.

Clause 37 makes consequential amendments to Schedule 1 and inserts *new Part 2 of Schedule 1*, which relates to transitional and savings provisions.

Clause 38 amends Schedule 1A of the Act, which sets out requirements that apply when a district or region that was not previously divided into 1 or more Māori wards or Māori constituencies is required under *new section 19GA* to be divided into 1 or more Māori wards or Māori constituencies for the purposes of a triennial general election. *Clause 38(1)* makes a consequential amendment to the heading of Schedule 1A. *Clause 38(2)* amends clauses 1 and 3 of Schedule 1A to change the deadline for making resolutions under section 19H or 19I to establish 1 or more Māori wards or Māori constituencies in a district or region. The deadline is changed from 31 August to 31 July in the year immediately before the election year. *Clause 38(3) and (6)* amends clauses 1(2) and 3(2) of Schedule 1A of the Act to reflect amendments made by *clauses 9 and 10* to sections 19H and 19I of the Act. *Clause 38(4), (7), (11), and (12)* amends clauses 2, 4, 6, and 7 of Schedule 1A of the Act to allow territorial authorities, regional councils, and the Local Government Commission to use estimates of the Māori electoral population and the general electoral population that are more recent than figures from the last census when making determinations about Māori wards or Māori constituencies. *Clause 38(5) and (8)* amends Schedule 1A of the Act to provide that the calculations in clauses 2 and 4 of that schedule are subject to the requirement in *new section 19GB(1)(c)*, which relates to the proposed number of members of the territorial authority or regional council. *Clause 38(9) and (10)* amends clause 6 of Schedule 1A to require territorial authorities, regional councils, and the Local Government Commission to have regard to rohe of iwi and hapū, instead of ‘tribal affiliations’, when determining the number of wards or constituencies and the boundaries of Māori wards or Māori constituencies.

Clause 39 provides for minor and consequential amendments to be made to the Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001 and the Local Electoral Regulations 2001 as set out in *Schedule 2*.

Part 2

Amendments to Local Government Act 2002

Clause 40 provides that *Part 2* amends the Local Government Act 2002 (the **Act**).

Clause 41 amends section 24 of the Act, which specifies the scope of local government reorganisation and provides that Schedule 3 of the Act applies in relation to local government reorganisation. The amendments provide that *new Schedule 3A*, instead of Schedule 3, applies if the local government reorganisation only provides for certain matters related to local board areas within a unitary authority's district. The amendments also provide that the provisions relating to local government reorganisation do not apply to an alteration of local board area boundaries proposed by a unitary authority in accordance with *new section 19JAA* of the Local Electoral Act 2001 (as inserted by *clause 11*).

Clauses 42 to 46 amend provisions of the Act that contain cross-references to clauses in Schedule 3, which deals with the procedures for local government reorganisation. The amendments add cross-references to the equivalent clauses in *new Schedule 3A* (as inserted by *clause 43*).

Clauses 47 and 48 amend section 225 and Schedule 3 of the Act to remove a redundant cross-reference and correct a typographical error.

Clause 49 inserts *new Schedule 3A*. *New Schedule 3A* sets out the procedures for a local government reorganisation that only provides for certain matters related to local board areas within a unitary authority's district.

Clause 50 amends Schedule 7 of the Act, which includes requirements that apply to meetings of a local authority. The amendments provide that where an application for a recount has been filed in relation to a triennial general election, the first meeting of the local authority after the election must be called after that recount has been completed and the elected candidates are known. The amendments also allow the chief executive of a local authority to call an urgent meeting before the first meeting of the local authority in certain circumstances. The chief executive may call an urgent meeting before the outcome of a recount is known if an event occurs that, in the opinion of the chief executive, requires the local authority to deal with a matter urgently. The amendments specify the persons who can participate in an urgent meeting, who chairs the meeting, and the business that can be conducted at the meeting. The amendments also correct a typographical error in clause 21 of Schedule 7 of the Act.

Clause 51 amends Schedule 10 of the Act to correct a reference.

All clauses in *Part 2* and the following Parts, with the exception of appropriate renumbering, are unchanged from the Local Government Electoral Legislation Bill written by the Hon. Nanaia Mahuta.

Part 3

Amendment to Local Government (Auckland Council) Act 2009

Clause 52 provides that *Part 3* amends the Local Government (Auckland Council) Act 2009 (the **Act**).

Clause 53 amends section 8 of the Act to align the restriction on the number of members of the Auckland Council with the restriction that applies to other territorial authorities. The amendment will replace the current fixed number of 21 members (1 mayor and 20 other members) with a number of members that is no fewer than 6 and no more than 30 (1 mayor and 5 to 29 other members).

Hon. CaptainKate2258, Hon. Nanaia Mahuta

Local Democracy Integrity Bill

Government Bill

- 1 Title
- 2 Commencement

Part 1

Amendments to Local Electoral Act 2001

- 3 Principal Act
- 4 Section 3 amended (Purpose)
- 5 Section 5 amended (Interpretation)
- 6 Section 9 amended (Holding of referendum)
- 7 Section 12 replaced (Electoral officer)
- 8 Section 19AB amended (Duties of certifiers)
- 9 Section 19C amended (Basis of election of member of territorial authority)
- 10 Section 19E amended (Basis of election of members of regional council)
- 11 New section 19GA and 19GB inserted
- 12 Section 19H amended (Review of representation arrangements for elections of territorial authorities)
- 13 Section 19I amended (Review of representation arrangements for elections of regional councils)
- 14 New section 19JAA inserted (Review of local board area boundaries by unitary authority)
- 15 Section 19K amended (Requirements for resolution)
- 16 Section 19L amended (Distribution of copies of resolution)
- 17 Section 19M amended (Public notice of proposals and responsibilities in relation to submissions)
- 18 Section 19N amended (Response to submissions)
- 19 Section 19O amended (Appeals)
- 20 Section 19P amended (Objections)
- 21 Section 19Q amended (Obligation to forward appeals and objections to Commission)

- 22 Section 19R amended (Commission to determine appeals and objections)
- 23 Section 19T amended (Requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities and local boards)
- 24 Section 19U amended (Requirement for effective representation and other factors in determination of membership and basis of election of regional council)
- 25 Section 19Z and cross-heading repealed
- 27 Section 24 repealed (Ratepayer electors)
- 28 Section 27 replaced (Local authority may resolve to change electoral systems)
- 29 Sections 28 to 35 repealed
- 30 Section 55 amended (Nomination of candidates)
- 31 Part 4 heading replaced
- 32 Section 90 amended (Application for recount)
- 33 New Section 90A inserted (Application by electoral officer for recount)
- 34 Section 92 amended (Conduct of recount)
- 35 New section 92A and 92B inserted
- 36 Section 148 amended (Validation of irregularities)
- 37 Schedule 1 amended
- 38 Schedule 1A amended
- 39 Minor and consequential amendments related to this Part

Part 2

Amendments to Local Government Act 2002

- 40 Principal Act
- 41 Section 24 amended (Scope of local government reorganisation)
- 42 Section 25 amended (Order in Council to give effect to reorganisation plan)
- 43 Section 26A amended (Duties of local authorities in relation to local government reorganisation)
- 44 Section 31A amended (Minister's expectations of Commission in relation to local government reorganisation)
- 45 Section 31A amended (Application of Official Information Act 1982)\
- 46 Section 97 amended (Certain decisions to be taken only if provided for in long-term plan)
- 47 Section 225 amended (Offences relating to waterworks)
- 48 Schedule 3 amended
- 49 New Schedule 3A inserted
- 50 Schedule 7 amended
- 51 Schedule 10 amended

Part 3

Amendment to Local Government (Auckland Council) Act 2009

- 52 Principal Act

53 Section 8 amended (Governing body of Auckland Council)

Schedule 1

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

Schedule 2

Minor and consequential amendments related to Part 1

Schedule 3

New Schedule 3A inserted into Local Government Act 2002

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Democracy Integrity Act **2022**.

2 Commencement

This Act comes into force the day after the date on which it receives the Royal assent.

Part 1

Amendments to the Local Electoral Act

3 Principal Act

This Part amends the Local Government Act 2001.

4 Section 3 amended (Purpose)

Replace section 3(c) with:

- (c) allow diversity (through local decision-making) in relation to the regular review of representation arrangements for local authorities; and

5 Section 5 amended (Interpretation)

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

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 assessment date, registered as electors of Māori electoral districts and 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
- (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

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 of 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

6 Section 9 amended (Holding of referendum)

Replace section 9(7)(a) with:

- (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

7 Section 12 replaced (Electoral officer)

Delete section 12 and, in its place, insert:

12 Electoral officer

- (1) For every local authority there must at all times be an electoral officer appointed by the Electoral Commission to exercise the powers and carry out the duties conferred on the electoral officer by this Act and any other enactment, in relation to that local authority.
- (2) The electoral officer may—
 - (a) delegate to any person or class of persons any power or duty under this Act or regulations made under this Act (except this power of delegation);
 - (b) appoint or engage any person or class of persons for the purposes

of carrying out any of those powers or duties:

- (3) An electoral officer, unless they die, are dismissed from office, or become incapable of acting, remains in office until their successor comes into office.
- (4) An electoral officer within this section is also considered to be an electoral official under the Electoral Act 1993.

8 Section 19AB amended (Duties of certifiers)

In section 19AB, replace “the Secretary for Local Government” with “the Electoral Commission”.

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

After section 19C(5), insert:

- (6) If, for the purpose of a triennial general election, a district of a territorial authority is required by resolution made under section 19H or 19GA, to be divided into 1 or more Māori wards, this Part (other than section 19B, 19G, and 19J) is subject to Schedule 1A.

10 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 region of a regional council is required by a resolution made under section 19I or 19GA to be divided into 1 or more Māori constituencies, this Part (other than sections 19B, 19G, and 19J) is subject to Schedule 1A.

11 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 triennial general election, the district of a territorial authority or the region of a regional council was not divided into 1 or more Māori wards of Māori constituencies for electoral purposes.
- (2) The territorial authority or regional council, before making a determination under section 19H or 19I, must resolve that the representation arrangements for the territorial authority or the regional council should include specific Māori representation.
- (3) A resolution under **subsection (2)** must be made by a territorial authority or regional council no later than 20 December of the year that is 2 years before the next triennial general election.

- (4) The territorial authority or regional council must, within 14 days after making a resolution under this section, give public notice of the resolution.
- (5) This section does not apply to a territorial authority of regional council if another enactment or provision requires that the district or region be divided into 1 or more Māori wards or Māori constituencies.

19GB Effect of resolution relating to specific Māori representation

- (1) If a territorial authority or regional council resolves under **section 19GA**, that representation arrangements must provide specific Māori representation, the subsequent determination by the territorial authority or regional council under section 19H or 19I must include,—
 - (a) in the case of a territorial authority, a proposal to divide the district 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 the region into 1 or more Māori constituencies and 1 or more general constituencies; and
 - (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.

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

- (1) After section 19H, insert:
 - (1a) If a territorial authority has resolved under **section 19GA** that representation arrangements must provide specific Māori representation, the matters 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.
- (3) In section 19H(3), replace “section 19ZH” with “**section 19C(6)**”

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

- (1) After section 19I(1), insert:
 - (1a) If a regional council has resolved under **section 19GA** that representation arrangements must provide 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).

- (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.
- (3) In section 19I(3), replace “section 19ZH” with “**section 19E(6)**”.

14 New section 19JAA inserted (Review of local board area boundaries by unitary authority)

After section 19J, insert:

- (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;
 - (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.

15 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 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
- (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 made a required resolution under **section 19GA** that representation arrangements must provide 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.

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

In section 19L, replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”.

17 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**”.

18 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”.
- (2) In section 19N(1)(a), replace “section 19H or section 19I or section 19J” with “section 19H, 19I, 19J, or **19JAA**”.

19 Section 19O amended (Appeals)

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

20 Section 19P amended (Objections)

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

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

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.

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

- (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.

23 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”.
 - (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”.
- 24 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”.
- 25 Section 19Z and cross-heading repealed**
Repeal section 19Z and the cross-heading above section 19Z.
- 26 Section 19ZH repealed (Basis of election of territorial authority and 20 regional council)**
Repeal section 19ZH.
- 27 Section 24 repealed (Ratepayer electors)**
 - (1) Repeal section 24.
 - (2) Make all necessary consequential amendments.
- 28 Section 27 replaced (Local authority may resolve to change electoral systems)**
 - (1) Delete section 27 and, in its place, insert:
 - 27 Local authorities to use Single Transferable Voting electoral system**
 - (1) Any local authority must, not later than 12 September in the year that is 2 years before the year in which the next triennial general election is to be held, resolve that future triennial general elections of the local authority and its local boards or community boards (if any), and any associated election, will be held using the Single Transferable Voting electoral system if the Single Transferable Voting electoral system is not already used.
 - (2) A resolution under this section—
 - (a) takes effect, subject to paragraph (b), for all future triennial general elections of the local authority and its local boards or community boards (if any), and any associated election; and
 - (b) continues in effect indefinitely.
 - (3) In this section, and in sections 28 to 34, **associated election**, in relation to any 2 successive triennial general elections of a local authority (and its local boards or community boards (if any)) means—
 - (a) any election to fill an extraordinary vacancy in the membership of the body concerned that is held—

- (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election:
 - (b) an election of the members of the body concerned called under section 258I or 258M of the Local Government Act 2002 that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial election.
 - (4) Any local authority in which triennial general elections are already held using the Single Transferable Voting electoral system may not resolve to change electoral systems.
 - (5) To avoid confusion, this section, despite anything else in this Act or any other Act of Parliament, applies to all unitary authorities.
- (2) Make all necessary consequential amendments.

29 Sections 28 to 35 repealed

Repeal sections 28 to 35 and make all necessary consequential amendments.

30 Section 55 amended (Nomination of candidates)

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

31 Part 4 heading replaced

Replace the Part 4 heading with:

Part 4
Recounts and inquiries

32 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”.

33 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.

34 Section 92 amended (Conduct of recount)

Repeal section 92(4).

35 New section 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) 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 office 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.

- (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, the electoral officer must give an amended declaration under section 86 of the result of the election.

36 **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

37 **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) 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 Democracy Integrity 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
 - (b) make all necessary consequential amendments.

38 **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”.
- (4) In Schedule 1A, clauses 4(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) 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 6(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”.
- (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:
- (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/takiwā 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)**”.

39 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

40 Principal Act

This Part amends the Local Government Act 2002.

41 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), section 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.**

42 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 30 **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,”.

43 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**”.

44 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**”.

45 Section 31A amended (Application of Official Information Act 1982)

- (1) In section 31A(1), after “Schedule 3”, insert “or **3A**”.

- (2) In section 31A(4)(b), after “Schedule 3”, insert “or **3A**”.
- 46 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**”.
- 47 Section 225 amended (Offences relating to waterworks)**
In section 225(2) and (3), delete “or (e)”.
- 48 Schedule 3 amended**
In Schedule 3, clause 22A(2), delete “that clause and”.
- 49 New Schedule 3A inserted**
After Schedule 3, insert the **Schedule 3A** set out in **Schedule 3** of this Act.
- 50 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 must be conducted at the first meeting of the local authority that 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 member 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 by 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 the 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.

51 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

52 Principal Act

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

53 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

Part 2
Provisions relating to Local Democracy Integrity Act 2022

8 Interpretation

In this Part,—

amendment Act means the Local Democracy Integrity Act 2022.

commencement date means the date on which the amendment Act comes into force.

9 Transitional provision relating to certain recounts

The amendments made by **section 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.

Schedule 2
Minor and Consequential amendments related to Part 1

Part 1
Minor and consequential amendments to local Act

Bay of Plenty Regional Council (Māori 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 a 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)**”.

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 determined 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)**, if 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 determined 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

Schedule 3A

Establishment or reorganisation of local board areas in unitary authority districts

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 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.

affected iwi or hapū means an iwi or a hapū 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 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 website 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 same 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 communities 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 report

- (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 the 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 **sub clause (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, disruptions, 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 be 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 matters 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 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 website; 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
 - (c) efficiencies and cost savings:
- (d) 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 Te Tiriti o 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 website.

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—
- (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 Te Tiriti o Waitangi claims settlement legislation), without first consulting all iwi or Māori organisations to whom that Act applies, the Attorney-General, and the Minister responsible 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 of 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 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—

And

 - (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 any 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 war 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 developed in 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 or 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 or 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** or 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 in 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.