

# **Electoral (Māori Electoral Option) Legislation Bill**

Government Bill

As reported from the committee of the whole House



**Key to symbols used in reprinted bill**

**As reported from the committee of the whole House**

text inserted

~~text deleted~~



*Hon Kiritapu Allan*

## **Electoral (Māori Electoral Option) Legislation Bill**

Government Bill

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### The Parliament of New Zealand enacts as follows:

#### 1 Title

This Act is the Electoral (Māori Electoral Option) Legislation Act **2022**.

#### 2 Commencement

This Act comes into force on 31 March 2023.

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## Part 1

### Amendments to Electoral Act 1993

#### 3 Principal Act

This Part amends the Electoral Act 1993.

#### 4 Section 3 amended (Interpretation)

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(1) In section 3(1), replace the definition of **Maori electoral population** with:

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

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(a) by ascertaining a proportion determined by dividing—

(i) the total number of persons, on counting day, either—

(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 counting day, either—	
	(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	5
	(b) by applying the proportion ascertained under paragraph (a) to the total number of ordinarily resident Māori persons on census day	
(2)	In section 3(1), insert in their appropriate alphabetical order:	
	<b>counting day</b> has the meaning given in <b>section 79(2)</b>	10
	<b>on census day</b> has the meaning given in <b>section 79(2)</b>	
<b>5</b>	<b>Section 35 amended (Division of New Zealand into General electoral districts)</b>	
(1)	Replace section 35(5) with:	
(5)	The Electoral Commission must supply the Government Statistician with the information required to be supplied under <b>section 79(1)</b> in accordance with that section.	15
(2)	Replace section 35(6)(b) with:	
	(b) has been supplied by the Electoral Commission with the information required to be supplied under <b>section 79(1)</b> ,—	20
(3)	In section 35(6), replace “at the close of the last day of that period” with “on counting day”.	
<b>6</b>	<b>Sections 76 to 79 replaced</b>	
	Replace sections 76 to 79 with:	
<b>76</b>	<b>Māori option</b>	25
(1)	A Māori who is eligible to be registered as an elector may choose to be registered as an elector of—	
	(a) a Māori electoral district; or	
	(b) a General electoral district.	
(2)	The option under <b>subsection (1)</b> (the <b>Māori option</b> ) may be exercised by a person in accordance with <b>section 77</b> .	30
<b>77</b>	<b>Exercise of Māori option</b>	
	<i>Exercise of option by 17-year olds</i>	
(1)	A Māori who is 17 years old may exercise the Māori option at the time they apply for registration as an elector under section 82(2).	35

	<i>Exercise of option when person applies for registration as elector</i>	
(2)	A Māori may exercise the Māori option at the time they apply for registration as an elector under section 83.	
	<i>Exercise of option by registered elector</i>	
(3)	A Māori who is registered as an elector may, at any time, exercise the Māori option by advising the Electoral Commission,—	5
	(a) in the case of a person registered as an elector of a Māori electoral district, that they wish to be registered as an elector of a General electoral district:	
	(b) in the case of a person registered as an elector of a General electoral district, that they wish to be registered as an elector of a Māori electoral district.	10
<b>78</b>	<b>Process for and effect of exercise of Māori option</b>	
	<i>How option is exercised</i>	
(1)	A person may exercise the Māori option by indicating their choice,—	15
	(a) in writing, by completing and signing a form that the Electoral Commission has approved and returning it to the Electoral Commission:	
	(b) in an approved electronic medium, by providing the required information:	
	(c) in an application for registration as an elector.	20
	<i>Receipt of late or non-compliant form or application</i>	
(1A)	<u>If a form or an application described in <b>subsection (1)(a) or (c)</b> is received by the Electoral Commission by post after the start of any election period and it complies with the requirements in <b>subsection (1B)</b>, that form or application is to be treated as having been received before the start of the election period and the elector must, if the form or application is otherwise in order, be treated as having exercised the Māori option.</u>	25
(1B)	<u>The requirements for a form or an application are the following:</u>	
	(a) <u>it must be received no later than noon on the fourth day after the start of an election period; and</u>	30
	(b) <u>it must be postmarked or date-stamped before the start of an election period.</u>	
(1C)	<u>If a form or an application described in <b>subsection (1)(a) or (c)</b> is received by the Electoral Commission by post before the start of any election period but that form or application does not comply with the requirements for signing and dating, the Electoral Commission may treat the notice as being in accordance with those requirements if the non-compliance is remedied not later than 6 days after the start of the election period.</u>	35



*Representatives may act on behalf of some persons*

- (2) A person who is outside New Zealand or who has a physical or mental impairment may exercise the Māori option through a representative and section 86 applies with any necessary modifications.

*Effect of exercise of option*

- (3) The exercise of the Māori option (if not made in an application under section 83) is to be treated as an application for registration as an elector for the purposes of—

- (a) the definition of electoral roll in section 3(1); and  
 (b) sections 89, 89A, 98, and 103.

- (4) In this section, **election period** means—

- (a) a general election period (see **section 78AA(4)**); or  
 (b) a local government election period (see **section 78AB(4)**); or  
 (c) a by-election period (see **section 78A(6)**).

**78AA Māori option may not be exercised in general election period**

- (1) The following persons may not exercise the Māori option during a general election period:

- (a) a Māori who is registered as an elector of an electoral district;  
 (b) a Māori who is named on a dormant roll and applies for registration as an elector of an electoral district.

- (2) To avoid doubt, **subsection (1)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors.

- (3) The Electoral Commission must not give effect to either of the following during a general election period:

- (a) any advice received under **section 77(3)** by a registered elector; or  
 (b) if processing an application under section 83 by a Māori person named on a dormant roll, the choice made by the person when exercising the Māori option in that application if it would register them as an elector for a different type of district from that for which they were previously registered.

- (4) In this section, **general election period** means any of the following periods:

- (a) the period that is 3 months before polling day for a general election, if at least 3 months' public notice is given of polling day (**polling day A**);  
 (b) the period commencing on the day after the day on which public notice of polling day is given and ending on polling day, if less than 3 months' public notice is given of polling day (**polling day B**);

- (c) if during a period specified in **paragraph (a) or (b)** public notice is given that polling day A or polling day B is changed to a later date (**polling day C**), such part of the period specified in **paragraph (a) or (b)** (as relevant) that has elapsed up until the end of the day on which the public notice is given, and a further period specified in **paragraph (a) or (b)** (as relevant) in relation to polling day C.

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**78AB Māori option may not be exercised in local government election period**

- (1) The following persons may not exercise the Māori option during a local government election period:

- (a) a Māori who is registered as an elector of an electoral district:  
 (b) a Māori who is named on a dormant roll and applies for registration as an elector of an electoral district.

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- (2) To avoid doubt, **subsection (1)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors.

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- (3) The Electoral Commission must not give effect to either of the following during a local government election period:

- (a) any advice received under **section 77(3)** by a registered elector; or  
 (b) if processing an application under section 83 by a Māori person named on a dormant roll, the choice made by the person when exercising the Māori option in that application if it would register them as an elector for a different type of district from that for which they were previously registered.

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- (4) In this section, **local government election period** means a period that is 3 months before polling day for an election held under section 10(2) of the Local Electoral Act 2001.

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~~**78A Māori option paused for registered electors and persons on dormant roll if by-election called**~~

- ~~(1) This section applies if the Speaker has published a notice of vacancy for an electoral district.~~

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- ~~(2) In the election period, the Electoral Commission must not do either of the following for a person relating to that district if the result will be that the person is eligible to vote in the by-election to fill that vacancy:~~

- ~~(a) give effect to advice given under **section 77(3)** (by a person who is registered as an elector):~~  
~~(b) if processing an application under section 83 in which the Māori option is exercised by a person named on a dormant roll, give effect to the choice made by the person if it would register them as an elector for a different type of district from that for which they were previously registered.~~

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- (2A) ~~To avoid doubt, **subsection (2)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors.~~
- (3) ~~**Subsection (2)** does not apply—~~
- ~~(a) if no writ is issued under section 131: 5~~
- ~~(b) for any part of a local election period for an election in a corresponding local electoral district that overlaps with the election period for the by-election.~~
- (4) In this section,—
- ~~**corresponding local electoral district** means a district of a local authority that has a geographical area that overlaps with the geographical area of the electoral district in which a by-election is being held 10~~
- ~~**election period** means the period beginning on the date on which the notice of vacancy is published and ending on polling day~~
- ~~**local election period** means a period beginning on the day a notice is issued for an election under section 52 of the Local Electoral Act 2001 and ending on polling day 15~~
- ~~**person relating to that district** means a person—~~
- ~~(a) whose place of residence in the district in which the vacancy has arisen and for which registration as an elector is claimed is the same as their place of residence immediately before the notice of vacancy was published; or 20~~
- ~~(b) who has moved their place of residence, for which registration as an elector is claimed, within or into the district in which the vacancy has arisen. 25~~
- 78A Māori option may not be exercised in by-election period**
- (1) This section applies if the Speaker has published a notice of vacancy for an electoral district.
- (2) The following persons may not exercise the Māori option during a by-election period if doing so would result in the person being eligible to vote in the by-election: 30
- (a) a Māori who is registered as an elector of an electoral district;
- (b) a Māori who is named on a dormant roll and applies for registration as an elector of an electoral district.
- (3) To avoid doubt, **subsection (2)** relates to changing the type of district in which the person is entitled to vote only and does not otherwise affect any other section in this Act relating to the registration of electors. 35
- (4) The Electoral Commission must not give effect to either of the following during a by-election period:

- (a) any advice received under **section 77(3)** by a registered elector; or
- (b) if processing an application under section 83 by a Māori person named on a dormant roll, the choice made by the person when exercising the Māori option in that application if it would register them as an elector for a different type of district from that for which they were previously registered. 5
- (5) However, **subsections (2) and (4)** do not apply if under section 131 no writ is issued.
- (6) In this section, **by-election period** means the period beginning on the date on which the notice of vacancy is published and ending on polling day for the by-election. 10
- 79 Determination of Māori electoral population**
- (1) For the purpose of enabling the Government Statistician to calculate the Māori electoral population, the Electoral Commission must, as soon as practicable after counting day, supply to the Government Statistician the following information as on counting day: 15
- (a) the total number of persons registered as electors of Māori electoral districts; and
- (b) the total number of Māori persons registered as electors of General electoral districts; and 20
- (c) the total number of persons whose names are on the dormant rolls maintained under section 109 for Māori electoral districts; and
- (d) the total number of Māori persons whose names are on the dormant rolls maintained under section 109 for General electoral districts. 25
- (2) In this Act,—
- counting day**—
- (a) means on census day; or
- (b) if a periodic census and a general election take place in the same calendar year, means 1 April in the following year
- on census day**, in relation to a number or information, means that number or information as determined by the last periodic census. 30
- 7 Section 86B amended (Prison manager to collect and send enrolment information to Electoral Commission)**
- Replace section 86B(1)(b) with:
- (b) if the prisoner is Māori, whether their choice is to be registered in a Māori electoral district or a General electoral district. 35
- 8 Section 89 amended (Procedure following application for registration)**
- Repeal section 89(2).

**8 Section 89 amended (Procedure following application for registration)**

Replace section 89(2) with:

- (2) If on receiving any application that includes the exercise of the Māori option the Electoral Commission believes that it is prevented, by any of **sections 78AA to 78A**, from giving effect to the option, the Electoral Commission must— 5
- (a) notify the applicant of the reason why the exercise of the Māori option cannot be given effect to until a later date and advise what that date is; and
- (b) advise the applicant whether they are entitled to be registered as an elector in another type of district. 10

**9 Section 89D amended (Inquiry to be made to update electoral rolls)**

After section 89D(5), insert:

- (5A) An inquiry under subsection (1), for a Māori registered as an elector,—
- (a) must inform the elector that they are currently registered in a Māori electoral district or a General electoral district (whichever applies); and 15
- (b) must inform the elector that they are entitled to exercise the Māori option under **section 76** at any time and change the type of district in which they are registered; and
- (c) must include a form or information about an approved electronic medium to use to exercise the Māori option; and 20
- (d) may give information about the differences between the 2 types of electoral districts that the Electoral Commission considers would be useful.
- (5B) To avoid doubt, **section 78** applies to the exercise of the Māori option following an inquiry under this section. 25

**9 New section 89DA inserted (Updating Māori option details)**

After section 89D, insert:

**89DA Updating Māori option details**

- (1) The Electoral Commission must send to Māori electors information about the exercise of the Māori option, if practicable, not later than— 30
- (a) 30 April 2023; and
- (b) 31 March in any other year in which Parliament is due to expire.
- (2) The Electoral Commission must send to Māori electors information about the exercise of the Māori option not less than 3 months before the commencement of a local government election period under **section 78AB**. 35

- (3) The information required to be sent to Māori electors under **subsections (1) and (2)** may be sent by any means that the Electoral Commission considers appropriate and—
- (a) must inform the elector that they are currently registered in a Māori electoral district or a General electoral district (whichever applies); and 5
- (b) must inform the elector that they are entitled to—
- (i) exercise the Māori option under **section 76** at any time other than as provided in **sections 78AA to 78A**; and
- (ii) change the type of district in which they are registered; and
- (c) must include a form or information about an approved electronic medium to use to exercise the Māori option; and 10
- (d) may give information about the differences between the 2 types of electoral districts that the Electoral Commission considers would be useful.
- 10 Section 89F amended (Procedure following inquiry under section 89D)**
- (1) In section 89F(2) and (3)(a) and (b), replace “89D(5)(c)” with “89D(5)(b)”. 15
- (2) In section 89F(4), replace “89D(5)(c)(i)” with “89D(5)(b)(i)”.
- (3) In section 89F(5), replace “89D(5)(c)(ii)” with “89D(5)(b)(ii)”.
- 11 Section 89G amended (Elector who cannot be contacted to be included in dormant roll)**
- In section 89G(1)(a), delete “or a notice sent under section 78(2)”. 20
- 12 Section 98 amended (Removal of names from roll by Electoral Commission)**
- Replace section 98(1)(g) with:
- (g) the name of every Māori person who has exercised the Māori option under **section 76** and chosen to be registered as an elector for a different type of electoral district: 25

## Part 2

### Amendments to Local Electoral Act 2001

- 13 Principal Act**
- This Part amends the Local Electoral Act 2001. 30
- 14 Section 5 amended (Interpretation)**
- (1) In section 5(1), insert in their appropriate alphabetical order:
- dormant roll** means a dormant roll referred to in section 109 of the Electoral Act 1993

**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~~

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**on census day**, in relation to a number or information, means that number or information as determined by the last periodic census

- (2) In section 5(1), replace the definition of **Māori electoral population** with:

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

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- (a) by ascertaining a proportion determined by dividing—

(i) the total number of persons, on census day, either—

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

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

(ii) the total number of Māori persons, on census day, either—

(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

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- (b) by applying the proportion ascertained under paragraph (a) to the total number of ordinarily resident Māori persons on census day

## 16 Schedule 1A amended

In Schedule 1A, replace clause 7(2) with:

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- (2) The numbers included in the certificate must be derived from information contained in—

(a) the most recent report of the Government Statistician to the Surveyor-General and the other members of the Representation Commission made under section 35(6) of the Electoral Act 1993; or

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(b) if **subclause (2A)** applies, the alternative report referred to in **subclause (2A)(b)**.

- (2A) In a year where a periodic census is held but a report under section 35(6) of the Electoral Act 1993 is not due to be completed (for the purposes of that Act) until after 1 April of the following year (*see* the definition of counting day in **section 79(2)** of that Act)—

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- (a) the Electoral Commission must, as soon as practicable after census day, supply to the Government Statistician the information listed in **section 79(1)** of that Act as on census day; and
- (b) the Government Statistician must prepare an alternative report for the purposes of this Act, with the information referred to in **paragraph (a)**.

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### 17 Consequential amendments to Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001

- (1) In section 3, replace the definition of **Māori electoral population** with:  
**Māori electoral population** has the same meaning as in section 5(1) of the Local Electoral Act 2001
- (2) Replace section 9(2) with:
- (2) The numbers included in the certificate must be derived from information contained in the most recent of the reports referred to in **clause 7(2) of Schedule 1A** of the Local Electoral Act 2001.

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#### Legislative history

21 June 2022  
 30 June 2022  
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 15 November 2022

Introduction (Bill 139–1)  
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