

Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Local Electoral Act 2001.

The policy intention of the Bill is to—

- align the treatment of Māori wards and Māori constituencies with the treatment of general wards and general constituencies as much as possible; and
- remove all mechanisms for binding polls to be held on whether Māori wards or Māori constituencies will be established; and
- provide local authorities with an opportunity to make decisions on Māori wards and Māori constituencies, in light of these changes, in time for the 2022 local elections.

At present, the Local Electoral Act 2001 provides that if a council resolves to establish wards or constituencies for electors on the Māori electoral roll, a local referendum (a **poll**) on whether Māori wards or Māori constituencies should be established must be held if at least 5% of the electors of the city, district, or region demand one. These polls have proved to be an almost insurmountable barrier to improving Māori representation in local government and, in some cases, a deterrent to local authorities considering establishing Māori wards or Māori constituencies.

There is no equivalent provision for elector-demanded polls in the process for creating general wards and general constituencies. Therefore, the removal of the poll provision is consistent with the Crown's obligations under te Tiriti o Waitangi/the Treaty of Waitangi and aims to strengthen the Māori–Crown relationship at a local level by removing barriers to Māori participation in local elections.

To achieve these policy aims, the Bill—

- repeals the provisions in the Local Electoral Act 2001 that relate to polls on the establishment of Māori wards and Māori constituencies; and
- prohibits binding council-initiated polls on whether to establish Māori wards or Māori constituencies (while retaining the right of councils to initiate non-binding polls to gauge public sentiment); and
- establishes a transition period ending on 21 May 2021 in which any local authority may, regardless of any previous decisions or previous poll outcomes, resolve to establish Māori wards or Māori constituencies for the 2022 local elections.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=6>

Regulatory impact assessment

The Department of Internal Affairs produced a regulatory impact assessment on 8 December 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <https://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill will come into effect on the day after the date of Royal assent.

Clause 3 provides that the Bill amends the Local Electoral Act 2001 (the **principal Act**).

Clause 4 and *new Schedule 1* (as inserted by *clause 9*) provide for transitional, savings, and related provisions, including provisions to—

- enable local authorities to resolve during a transition period ending on 21 May 2021 to establish Māori wards or Māori constituencies (as applicable) for the next triennial general election; and

- enable local authorities to revoke resolutions made before the commencement of the Bill to establish Māori wards or Māori constituencies (as applicable) for the next triennial general election; and
- provide that any resolution of a local authority before the Bill's commencement date to hold a binding poll on whether to establish a Māori ward or Māori constituency ceases to have effect on the commencement date; and
- provide that any demand for a binding poll before the Bill's commencement date must be disregarded on and after the commencement date.

Clause 5 amends section 9 of the principal Act. Section 9 provides that a local authority may direct the electoral officer to conduct a referendum on any matter relating to the services or policies of the local authority or any proposal relating to the activities or objectives of the local authority or the well-being of its local government area. The amendment provides that no referendum relating to the division of any district or region into 1 or more Māori wards or Māori constituencies is binding.

Clauses 6 and 7 amend section 19Z and repeal sections 19ZA to 19ZG of the principal Act to remove—

- the provisions enabling electors to demand a poll on whether to establish a Māori ward or Māori constituency; and
- the provisions enabling territorial authorities and regional councils to resolve to hold a poll on whether to establish a Māori ward or Māori constituency.

Clause 8 consequentially amends section 138A of the principal Act to remove references to sections 19ZC, 19ZD, and 19ZF, which are repealed by *clause 7*.

Hon Nanaia Mahuta

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New Schedule 1 inserted	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act **2021**.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

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3 Principal Act

This Act amends the Local Electoral Act 2001 (the **principal Act**).

4 New section 5AA inserted (Transitional, savings, and related provisions)

After section 5, insert:

5AA Transitional, savings, and related provisions 5

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

5 Section 9 amended (Holding of referendum)

Replace section 9(7) with:

- (7) The result of a referendum conducted as a consequence of a direction under this section is not binding on a local authority— 10
- (a) in the case of any matter or proposal relating to the division of any district or region into 1 or more Māori wards or Māori constituencies; or
 - (b) in any other case, unless the local authority resolves otherwise or an enactment provides otherwise. 15

6 Section 19Z amended (Territorial authority or regional council may resolve to establish Māori wards or Māori constituencies)

(1) Replace section 19Z(3)(c) with:

- (c) in either case, takes effect for 2 triennial general elections of the territorial authority or regional council, and for any associated election, and continues in effect after that until a further resolution under this section takes effect. 20

(2) Replace section 19Z(4) with:

- (4) This section— 25
- (a) is subject to clauses 2(5) and 4(4) of Schedule 1A; and
 - (b) does not apply in relation to a territorial authority or regional council if another enactment requires,—
 - (i) in the case of a territorial authority, that the district be divided into 1 or more Māori wards; or
 - (ii) in the case of a regional council, that the region be divided into 1 or more Māori constituencies. 30

(3) In section 19Z(5), delete “and in sections 19ZB to 19ZG”.

7 Sections 19ZA to 19ZG repealed

Repeal sections 19ZA to 19ZG.

8 Section 138A amended (Special provision in relation to certain elections to fill extraordinary vacancies and certain polls)

In section 138A(1),—

- (a) replace “section 19ZF(3), section 33(3),” with “section 33(3)”; and
- (b) delete “section 19ZC(5), section 19ZD(4),” in each place; and 5
- (c) delete “section 19ZF or” in each place.

9 New Schedule 1 inserted

Insert the **Schedule 1** set out in the **Schedule** of this Act as the first schedule to appear after the last section of the principal Act.

Schedule
New Schedule 1 inserted

s 9

Schedule 1
Transitional, savings, and related provisions

5

s 5AA

Part 1
**Provisions relating to Local Electoral (Māori Wards and Māori
Constituencies) Amendment Act 2021**

- 1 Definitions** 10
- In this Part, unless the context otherwise requires,—
- amendment Act** means the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act **2021**
- commencement date** means the date on which the amendment Act comes into force 15
- transition period** means the period beginning on the commencement date and ending on 21 May 2021.
- 2 Territorial authority or regional council may resolve during transition period to establish Māori wards or Māori constituencies for next triennial general election** 20
- (1) Any territorial authority may resolve at any time during the transition period that the district be divided into 1 or more Māori wards for electoral purposes.
- (2) Any regional council may resolve at any time during the transition period that the region be divided into 1 or more Māori constituencies for electoral purposes. 25
- (3) A resolution under **subclause (1) or (2)**—
- (a) may be made despite any poll held under section 19ZF before the commencement date; and
- (b) takes effect for the purposes of the next 2 triennial general elections of the territorial authority or regional council, and for any associated election, and continues in effect after that until a further resolution under section 19Z takes effect. 30
- (4) This clause—
- (a) is subject to clauses 2(5) and 4(4) of Schedule 1A (as if this clause were in Part 1A of this Act); and 35

(b)	does not apply to Bay of Plenty Regional Council (<i>see</i> the Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001).	
(5)	In this clause, associated election has the same meaning as in section 19Z.	
3	Territorial authority or regional council may revoke resolution made under section 19Z before commencement date	5
(1)	This clause applies to a resolution of a territorial authority or regional council made under section 19Z at any time during the period—	
(a)	commencing on 13 October 2019; and	
(b)	ending on the day before the commencement date.	
(2)	The territorial authority or regional council may, at any time during the transition period, revoke the resolution.	10
4	No poll may be demanded on or after commencement date to countermand resolution made under section 19Z before commencement date	
(1)	This clause applies in relation to a resolution of a territorial authority or regional council made under section 19Z before the commencement date.	15
(2)	No demand for a poll to countermand the resolution may be made under section 19ZB on or after the commencement date despite any public notice having been given under section 19ZA by the territorial authority or regional council before the commencement date of a right to demand a poll.	20
5	Demand for poll by electors under sections 19ZB and 19ZC before commencement date must be disregarded on commencement date	
(1)	This clause applies if—	
(a)	a territorial authority or regional council receives a demand for a poll made in accordance with sections 19ZB and 19ZC before the commencement date; and	25
(b)	the poll has not been held as at the commencement date.	
(2)	The demand must be disregarded on and after the commencement date.	
(3)	The chief executive of the territorial authority or regional council must not give notice to the electoral officer of the demand on or after the commencement date.	30
(4)	An electoral officer for a territorial authority or regional council who, before the commencement date, receives notice under section 19ZC(5) of a demand for a poll must not give public notice of the poll on or after the commencement date.	35

- 6 Resolution of territorial authority or regional council made under section 19ZD before commencement date ceases to have effect on commencement date**
- (1) This clause applies to a resolution of a territorial authority or regional council under section 19ZD(1) if— 5
- (a) the resolution was made before the commencement date; and
- (b) the poll has not been held as at the commencement date.
- (2) The resolution ceases to have effect on the commencement date.
- (3) An electoral officer who, before the commencement date, received a notice under section 19ZD of a resolution that a poll be held must not give public notice of the poll on or after the commencement date. 10
- 7 Electoral officer must give public notice that any poll announced before commencement date will not be held**
- (1) This clause applies to an electoral officer who, during the period of 89 days before the commencement date, gives public notice of a poll in accordance with section 19ZF(1). 15
- (2) The electoral officer must, as soon as practicable after the commencement date, give public notice that the poll will not be held.