

Local Electoral Amendment Act 2002

Public Act 2002 No 85
Date of assent 24 December 2002

Contents

		Page
1	Title	5
2	Commencement	5
3	Purpose	5
4	Interpretation	6
5	Rules applying to electoral officers, deputy electoral officers, and other electoral officials	7
6	New Part 1A inserted	7

Part1A

Representation arrangements for elections of territorial authorities, regional councils, and community boards

19A	Membership of territorial authorities	7
19B	Basis of election of mayor of territorial authority	7
19C	Basis of election of members of territorial authority	7
19D	Membership of regional councils	8
19E	Basis of election of members of regional council	8
19F	Membership of community boards	8
19G	Basis of election of members of community board	9
19H	Review of representation arrangements for elections of territorial authorities	10
19I	Review of representation arrangements for elections of regional councils	10

19J	Review of community boards	11
19K	Requirements for resolution	12
19L	Distribution of copies of resolution	12
19M	Public notice of proposals and responsibilities in relation to submissions	13
19N	Response to submissions	14
19O	Appeals	15
19P	Objections	16
19Q	Obligation to forward appeals and objections to Commission	16
19R	Commission to determine appeals and objections	17
19S	Determination of Commission	18
19T	Requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities	18
19U	Requirement for effective representation and other factors in determination of membership and basis of election of regional council	19
19V	Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions	19
19W	Factors in determination of matters in relation to community boards	21
19X	Certificate of Government Statistician	21
19Y	When determinations take effect	22
	<i>Maori wards and Maori constituencies</i>	
19Z	Territorial authority or regional council may resolve to establish “Maori wards or Maori constituencies	24
19ZA	Public notice of right to demand poll	25
19ZB	Electors may demand poll	25
19ZC	Requirements for valid demand	26
19ZD	Territorial authority or regional council may resolve to hold poll	27
19ZE	Limitation on division into Maori wards or Maori constituencies	28
19ZF	Poll of electors	28
19ZG	Effect of poll	30
19ZH	Basis of election of territorial authority and regional council	31

Guidelines

	19ZI	Guidelines in relation to reviews of representation	31
7		New sections 24A to 24F inserted	32
	24A	Electors of Maori wards	32
	24B	Voting rights at triennial general election of territorial authority	33
	24C	Voting rights at election to fill extraordinary vacancy in respect of Maori ward	34
	24D	Electors of Maori constituencies	34
	24E	Voting rights at triennial general election of regional council	35
	24F	Voting rights at election to fill extraordinary vacancy in respect of Maori constituency	35
8		Candidate qualifications	35
9		Local authority may resolve to change electoral systems	36
10		Public notice of right to demand poll on electoral system	36
11		Electors may demand poll	37
12		Requirements for valid demand	37
13		Local authority may resolve to hold poll	38
14		Limitation on change to electoral systems	38
15		Poll of electors	38
16		New section 34 substituted	40
	34	Effect of poll	40
17		Supply of information by Chief Registrar of Electors	41
18		Notice of election or poll	41
19		Nomination of candidates	41
20		Name of candidate	42
21		New sections 57A and 57B inserted	42
	57A	Candidacy for more than 1 ward or constituency or subdivision prohibited	42
	57B	Candidacy for ward and membership at large prohibited	42
22		New section 58A inserted	42
	58A	Prohibition on candidacy for community board	42
23		Forfeiture of deposit and refund of deposit	42
24		Candidate profile statements	43
25		Further notice to electors of election or poll	43
26		General rules affecting scrutineers	43
27		Retirement, death, incapacity, or invalid nomination of a candidate	44
28		New section 79 substituted	45
	79	Early processing of votes	45

29	Scrutineers' presence at processing prohibited before close of voting	45
30	Counting of votes	45
31	New section 85 substituted	46
	85 Preliminary results	46
32	What happens if same person elected as mayor and another member	46
33	New sections 88A to 88F inserted	46
	88A What happens if same person elected to both territorial authority and community board	46
	88B Amended declaration if election under First Past the Post electoral system	47
	88C Amended declaration if election under Single Transferable Voting electoral system	47
	88D Application of provision relating to petition for inquiry	48
	88E What happens if no amended declaration can be made	48
	88F What happens if member of community board becomes member of territorial authority	49
34	Interpretation	49
35	Return to be open for public inspection	49
36	Apportionment of electoral expenses	50
37	When members leave office	50
38	Extraordinary vacancy in local authority or community board	50
39	New section 117A inserted	50
	117A Power to fill by appointment extraordinary vacancy in community board	50
40	Notice of intention to fill vacancy by appointment	50
41	Election to fill extraordinary vacancy	51
42	New section 135 substituted	51
	135 Unauthorised advertisements	51
43	Duty to take action in respect of offences	51
44	New section 138A inserted	51
	138A Special provision in relation to certain elections to fill "extraordinary vacancies and certain polls	51
45	Regulations	52
46	New section 140A inserted	52
	140A Electoral systems	52
47	Transitional provisions relating to electoral systems	53
48	Schedule 1 amended	53

1A	Algorithm and article	54
	<i>Modifications to Algorithm 123</i>	
8	Required modifications	54
13A	Withdrawal or exclusion of candidates	55
49	New Schedule 1A inserted	56
50	Declaration of Single Transferable Voting to be electoral system	56
51	Related amendments to New Zealand Public Health and Disability Act 2000	57
52	Consequential amendments	57
53	Repeals	57
54	Transitional provision relating to polls on electoral systems	57
55	Certain determinations to remain in effect	58
	Schedule 1	59
	New Schedule 1A of Local Electoral Act 2001	
	Schedule 2	65
	Consequential amendments	

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Local Electoral Amendment Act 2002.
- (2) In this Act, the Local Electoral Act 2001 is called “the principal Act”.

2 Commencement

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

3 Purpose

Section 3(c) of the principal Act is amended by inserting, after subparagraph (i), the following subparagraph:

- “(ia) the regular review of representation arrangements for local authorities; and.”

4 Interpretation

(1) Section 5(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**anonymous**, in relation to an electoral donation (as defined in section 104), means a donation that is made in such a way that the candidate concerned does not know who made the donation

“**census** means the census of population and dwellings carried out by Statistics New Zealand under the Statistics Act 1975

“**Commission** means the Local Government Commission continued by section 37V of the Local Government Act 1974 or section 28 of the Local Government Act 2002

“**constituency** means a constituency established under this Act and resulting from the division, for electoral purposes, of a region

“**counting program** is a computer application program used to implement the New Zealand method of counting single transferable votes that must operate within a particular operating environment

“**general constituency**, in relation to a region, means every constituency of the region that is not a Maori constituency

“**general electoral population** has the same meaning as in section 3(1) of the Electoral Act 1993

“**general ward**, in relation to the district of a territorial authority, means every ward of the district that is not a Maori ward

“**Maori constituency** means a Maori constituency created in accordance with Schedule 1A

“**Maori electoral district** has the same meaning as in section 3(1) of the Electoral Act 1993

“**Maori electoral population** has the same meaning as in section 3(1) of the Electoral Act 1993

“**Maori ward** means a Maori ward created in accordance with Schedule 1A

“**New Zealand method of counting single transferable votes** means the method of counting votes described in Schedule 1

“**ward** means a ward established under this Act and resulting from the division, for electoral purposes, of the district of a territorial authority.”

(2) Section 5(1) of the principal Act is amended by omitting from paragraph (b) of the definition of electoral system the

words “Meek’s method of counting votes”, and substituting the words “the New Zealand method of counting single transferable votes”.

- (3) Section 5(1) of the principal Act is amended by repealing the definition of Meek’s method of counting votes.

5 Rules applying to electoral officers, deputy electoral officers, and other electoral officials

Section 14(5) of the principal Act is amended by omitting the words “principal administrative officer or”.

6 New Part 1A inserted

The principal Act is amended by inserting, after Part 1, the following Part:

“Part 1A

“Representation arrangements for elections of territorial authorities, regional councils, and community boards

“19A Membership of territorial authorities

Every governing body of a territorial authority is to consist of not fewer than 6 members nor more than 30 members, including the mayor, who are the members of the territorial authority.

“Compare: 1974 No 66 s 101C

“19B Basis of election of mayor of territorial authority

- “(1) The mayor of a territorial authority is to be elected by the electors of the district as a whole.

- “(2) The election of the mayor is to be held at the same time as the general election of the other members of the territorial authority.

“19C Basis of election of members of territorial authority

- “(1) A district of a territorial authority may be divided into wards for electoral purposes.

- “(2) If a district is divided into wards, some of the members of the territorial authority may be elected by the electors of the district as a whole, but, in that case, the other members of

the territorial authority must be elected by the electors of each ward of the district.

- “(3) Each ward must elect at least 1 member of the territorial authority.
- “(4) If a district is not divided into wards, the members of the territorial authority must be elected by the electors of the district as a whole.
- “(5) If a district is divided into wards, each member of the territorial authority representing a ward must be elected by the electors of that ward.

“Compare: 1974 No 66 ss 101D(1), (3), 101E(1), (3), (4)

“19D Membership of regional councils

Every governing body of a regional council is to consist of not fewer than 6 members nor more than 14 members, who are the members of the regional council.

“Compare: 1974 No 66 s 101CA

“19E Basis of election of members of regional council

- “(1) A region must be divided into constituencies for electoral purposes.
- “(2) The members of a regional council must be elected by the electors of each constituency of the region.
- “(3) The members of a regional council may not be elected partly by the electors of the region and partly by the electors of each constituency of the region.
- “(4) Each constituency must elect at least 1 member of the regional council.
- “(5) The members of the regional council representing the respective constituencies of the region must be elected by the electors of those constituencies respectively.

“Compare: 1974 No 66 ss 101D(2), (3), 101E(1), (2)

“19F Membership of community boards

- “(1) Every community board—
 - “(a) is to consist of not fewer than 4 members nor more than 12 members; and
 - “(b) is to include at least 4 elected members; and

- “(c) may include appointed members.
- “(2) The number of appointed members is to be less than half the total number of members.
- “(3) The persons who are appointed under subsection (1)(c) as members of the community board must—
- “(a) be members of, and must be appointed by, the territorial authority for the district in respect of which the community is constituted; and
- “(b) if the territorial authority is divided into wards, also be members of the territorial authority representing a ward in which the community is situated.
- “Compare: 1974 No 66 s 101ZQ(1), (2), (5)

“19G Basis of election of members of community board

- “(1) The part of a district in respect of which a community is constituted may be subdivided for electoral purposes.
- “(2) Each subdivision must elect at least 1 member of the community board.
- “(3) If a community comprises 2 or more whole wards, the elected members of the community board may be elected by the electors of each ward.
- “(4) If the community is not subdivided for electoral purposes, the members of the community board must, unless they are to be elected in accordance with subsection (3), be elected by the electors of the community as a whole.
- “(5) If a community is subdivided for electoral purposes or if the members of the community board are to be elected in accordance with subsection (3),—
- “(a) each member of the community board who represents a subdivision must be elected by the electors of the subdivision; and
- “(b) each member of the community board who represents a ward must be elected by the electors of that ward.
- “Compare: 1974 No 66 s 101E(5)

“19H Review of representation arrangements for elections of territorial authorities

- “(1) A territorial authority must determine by resolution, and in accordance with this Part,—
- “(a) whether the members of the territorial authority (other than the mayor) are proposed to be elected—
 - “(i) by the electors of the district as a whole; or
 - “(ii) by the electors of 2 or more wards; or
 - “(iii) in some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and
 - “(b) in any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and
 - “(c) in any case to which paragraph (a)(iii) applies,—
 - “(i) the proposed number of members to be elected by the electors of the district as a whole; and
 - “(ii) the proposed number of members to be elected by the wards of the district; and
 - “(d) in any case to which paragraph (a)(ii) or paragraph (a)(iii) applies,—
 - “(i) the proposed name and the proposed boundaries of each ward; and
 - “(ii) the number of members proposed to be elected by the electors of each ward.
- “(2) The determination required by subsection (1) must be made by a territorial authority,—
- “(a) on the first occasion, either in 2003 or in 2006; and
 - “(b) subsequently, at least once in every period of 6 years after the first determination.
- “(3) This section must be read in conjunction with section 19ZH and Schedule 1A.
- “Compare: 1974 No 66 s 101H(1)

“19I Review of representation arrangements for elections of regional councils

- “(1) A regional council must determine by resolution, and in accordance with this Part,—
- “(a) the proposed number of constituencies; and

- “(b) the proposed name and the proposed boundaries of each constituency; and
 - “(c) the number of members proposed to be elected by the electors of each constituency.
- “(2) The determination required by subsection (1) must be made by the regional council,—
- “(a) on the first occasion, either in 2003 or in 2006; and
 - “(b) subsequently, at least once in every period of 6 years after the first determination.
- “(3) This section must be read in conjunction with section 19ZH and Schedule 1A.
- “Compare: 1974 No 66 s 101H(2)

“19J Review of community boards

- “(1) A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities),—
- “(a) there should be communities and community boards; and
 - “(b) if so resolved, the nature of any community and the structure of any community board.
- “(2) The resolution referred to in subsection (1) must, in particular, determine—
- “(a) whether 1 or more communities should be constituted:
 - “(b) whether any community should be abolished or united with another community:
 - “(c) whether the boundaries of a community should be altered:
 - “(d) whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require:
 - “(e) whether the boundaries of any subdivision should be altered:
 - “(f) the number of members of any community board:

- “(g) the number of members of a community board who should be elected and the number of members of a community board who should be appointed:
 - “(h) whether the members of a community board who are proposed to be elected are to be elected—
 - “(i) by the electors of the community as a whole; or
 - “(ii) by the electors of 2 or more subdivisions; or
 - “(iii) if the community comprises 2 or more whole wards, by the electors of each ward:
 - “(i) in any case to which paragraph (h)(ii) applies,—
 - “(i) the proposed name and the proposed boundaries of each subdivision; and
 - “(ii) the number of members proposed to be elected by the electors of each subdivision.
- “(3) Nothing in this section limits the provisions of section 19F.
 “Compare: 1974 No 66 s 101ZR(3)

“19K Requirements for resolution

- “(1) Every resolution specified in subsection (3) must include or be accompanied by a description of each proposed ward, constituency, community, or subdivision, and its proposed boundaries, so as to make each proposed ward, constituency, community, or subdivision readily identifiable to the public.
- “(2) If any resolution under section 19H or section 19I or section 19J proposes any change to the basis of election, membership, or ward, constituency, community, or subdivision boundaries which applied at the last triennial general election of members of the territorial authority, regional council, or community board, that resolution must include an explanation of the reasons for the proposed change.
- “(3) Subsection (1) applies to every resolution under section 19H(1)(a)(ii) or section 19H(1)(a)(iii) or section 19I(1) or section 19J(2)(a) or section 19J(2)(b) or section 19J(2)(c) or section 19J(2)(d) or section 19J(2)(e) or section 19J(2)(h)(iii).
 “Compare: 1974 No 66 s 101H(3), (4)

“19L Distribution of copies of resolution

If a territorial authority or regional council makes a resolution under section 19H or section 19I or section 19J, that territorial

authority or regional council must, as soon as practicable after making that resolution,—

- “(a) send a copy of that resolution to—
 - “(i) the Commission; and
 - “(ii) the Surveyor-General; and
 - “(iii) the Government Statistician; and
 - “(iv) the Higher Salaries Commission or the Remuneration Authority.
- “(b) in the case of a resolution made by a regional council, send a copy of that resolution to every territorial authority whose district or a part of whose district is within the region; and
- “(c) in the case of a resolution made by a territorial authority, send a copy of that resolution to any regional council for a region in which the district of the territorial authority or any part of that district is situated.

“Compare: 1974 No 66 s 101I

“19M Public notice of proposals and responsibilities in relation to submissions

- “(1) A territorial authority or regional council that makes a resolution under section 19H or section 19I or section 19J must, within 14 days after making the resolution (but, in the year immediately before the year of a triennial general election, not later than 8 September), give public notice of the proposals contained in the resolution.
- “(2) The public notice must—
 - “(a) include a statement about how persons interested in the proposals may inspect the full proposals; and
 - “(b) specify the communities of interest considered by the territorial authority or regional council as required by section 19T and section 19V or, as the case may require, section 19U and section 19V; and
 - “(c) specify the ratio of population to proposed members for each proposed ward (if any) or constituency or subdivision (if any), and the reasons for those proposals in terms of section 19V(2) and, if applicable, section 19V(3); and

- “(d) specify a period of not less than 1 month from the date of the first or only publication of the notice within which persons interested in the resolution may make submissions on the resolution to the territorial authority or regional council.
- “(3) A territorial authority or regional council to whom subsection (1) applies must—
 - “(a) ensure that any person who makes a submission on the proposal within the period referred to in subsection (2)(d)—
 - “(i) is sent a written notice acknowledging receipt of that person’s submission; and
 - “(ii) is given a reasonable opportunity to be heard by the territorial authority or regional council (if that person so requests); and
 - “(b) ensure that the notice given to a person under paragraph (a) contains information—
 - “(i) advising that person of that person’s opportunity to be heard; and
 - “(ii) explaining how that person may exercise that person’s opportunity to be heard; and
 - “(c) ensure that, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987, every meeting at which submissions on a resolution referred to in subsection (1) are heard or at which the territorial authority or regional council deliberates on the proposal is open to the public; and
 - “(d) subject to the Local Government Official Information and Meetings Act 1987, make all written submissions on a resolution of that kind available to the public.

“Compare: 1974 No 66 s 101J(1)

“19N Response to submissions

- “(1) The territorial authority or regional council must, within 6 weeks after the end of the period allowed for the making of submissions and specified in the notice given under section 19M,—
 - “(a) consider all submissions received and may, by resolution, make such amendments to the resolution made

- under section 19H or section 19I or section 19J, as the case may be, as it thinks fit; and
- “(b) give public notice of its proposals.
- “(2) The public notice must—
- “(a) incorporate any amendments resolved under subsection (1)(a); and
- “(b) state both the reasons for the amendments and the reasons for any rejection of submissions; and
- “(c) specify the right of appeal conferred by section 19O, including the place and closing date for the receipt of appeals; and
- “(d) if the territorial authority or regional council has amended its proposals under subsection (1)(a), specify the right of objection conferred by section 19P, including the place and closing date for the receipt of objections.
- “(3) The territorial authority or regional council by which the public notice was given must—
- “(a) send a copy of that notice to—
- “(i) the Commission; and
- “(ii) the Surveyor-General; and
- “(iii) the Government Statistician; and
- “(iv) the Higher Salaries Commission or the Remuneration Authority.
- “(b) if that notice was given by a territorial authority, send a copy of that notice to any regional council for a region in which the district of the territorial authority or any part of that district is situated; and
- “(c) if that notice was given by a regional council, send a copy of that notice to every territorial authority whose district or a part of whose district is within the region.
- “Compare: 1974 No 66 s 101J(3), (6)

“190 Appeals

- “(1) Any person who or organisation (including a community board) that has made submissions on a resolution made under section 19H or section 19I or section 19J may lodge a written appeal against the decision of the territorial authority or regional council at the principal office of the territorial

authority or regional council on or before the date specified in the public notice of that decision.

- “(2) That date—
- “(a) must not be earlier than 1 month after the date of the first or only publication of the public notice; and
 - “(b) must not, in a year immediately before the year of a triennial general election, be later than 20 December.
- “(3) An appeal lodged under this section—
- “(a) must identify the matters to which the appeal relates:
 - “(b) may raise only those matters that were raised in the appellants’ submissions.

“Compare: 1974 No 66 s 101J(4)

“19P Objections

- “(1) If the territorial authority or regional council has, under section 19N(1)(a), amended the resolution made by it under section 19H or section 19I or section 19J, any interested person or organisation (including a community board) may lodge a written objection to the amended resolution at the principal office of the territorial authority or regional council on or before the date specified in the public notice, which date must be the same date as that specified for the closing of receipt of appeals under section 19O.
- “(2) An objection lodged under this section must identify the matters to which the objection relates.

“Compare: 1974 No 66 s 101J(5)

“19Q Obligation to forward appeals and objections to Commission

If the territorial authority or regional council receives any appeal under section 19O or any objection under section 19P, the territorial authority or regional council must, as soon as practicable, but, in the year of a triennial general election, in no case later than 15 January, forward to the Commission—

- “(a) the resolution made under section 19H or section 19I or section 19J and any resolution made under section 19N(1)(a) that made amendments to the resolution made under section 19H or section 19I or section 19J; and

- “(b) a copy of the public notice given under section 19N(1)(b); and
- “(c) every submission made to the territorial authority or regional council on the resolution made by the territorial authority or regional council under section 19H or section 19I or section 19J; and
- “(d) every appeal and objection received by the territorial authority or regional council under section 19O or section 19P; and
- “(e) such information concerning the communities of interest and population of the district or region or community, or any proposed ward or constituency or subdivision, as is held by the territorial authority or regional council and is necessary for the purposes of section 19R.

“Compare: 1974 No 66 s 101J(7)

“19R Commission to determine appeals and objections

- “(1) The Commission must—
- “(a) consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and
 - “(b) subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine,—
 - “(i) in the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:
 - “(ii) in the case of a regional council that has made a resolution under section 19I, the matters specified in that section:
 - “(iii) in the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.
- “(2) For the purposes of making a determination under subsection (1)(b), the Commission—
- “(a) may make any enquiries that it considers appropriate; and
 - “(b) may hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons

who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.

- “(3) The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).

“Compare: 1974 No 66 s 101K(1), (2)

“19S Determination of Commission

- “(1) Notice in writing of every determination made under section 19R(1)(b), setting out the reasons for the determination, must be given by the Commission to the territorial authority or regional council concerned, and by public notice.

- “(2) As soon as practicable after the publication of a public notice under subsection (1), the Commission must send a copy of that notice to—

“(a) the Surveyor-General; and

“(b) the Government Statistician; and

“(c) the Higher Salaries Commission or the Remuneration Authority; and

“(d) the Secretary for Local Government.

- “(3) Subject to Part 2AA of the Local Government Act 1974 or Schedule 5 of the Local Government Act 2002, the determination of the Commission made under section 19R(1)(b) is final and comes into force for the next triennial general election, and continues in effect until a subsequent determination under this Part comes into effect.

“Compare: 1974 No 66 s 101K(3)-(5)

“19T Requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities

In determining the matters specified in paragraphs (a) to (d) of section 19H(1), the territorial authority and, where appropriate, the Commission must ensure—

- “(a) that the election of members of the territorial authority (other than the mayor), in 1 of the ways specified in subparagraphs (i) to (iii) of section 19H(1)(a), will pro-

vide effective representation of communities of interest within the district; and

- “(b) that ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
- “(c) that, so far as is practicable, ward boundaries coincide with community boundaries.

“Compare: 1974 No 66 s 101L(2), (4)

“19U Requirement for effective representation and other factors in determination of membership and basis of election of regional council

In determining the matters specified in paragraphs (a) to (c) of section 19I(1), the regional council and, where appropriate, the Commission must ensure—

- “(a) that the number and boundaries of constituencies will provide effective representation of communities of interest within the region; and
- “(b) that constituency boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
- “(c) that, so far as is practicable, constituency boundaries coincide with the boundaries of 1 or more territorial authority districts or the boundaries of wards.

“Compare: 1974 No 66 s 101L(1)

“19V Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions

- “(1) In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community.

- “(2) For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than the mayor, if any).
- “(3) Despite subsection (2),—
- “(a) if the territorial authority or the Commission considers that the effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority so requires, wards and subdivisions of a community may be defined and membership distributed between them in a way that does not comply with subsection (2):
 - “(b) if the regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with subsection (2).
- “(4) A regional council that decides under subsection (3)(b) not to comply with subsection (2) must refer that decision to the Commission together with the information specified in section 19Q(a) to (e).
- “(5) A reference under subsection (4) must be treated as if it were an appeal against the decision of the regional council, for the purposes of sections 19R (other than subsection (1)(b)), 19S, and 19Y, which apply with any necessary modifications.
- “(6) On receiving a reference under subsection (4), the Commission must determine, under section 19R(1), whether—
- “(a) to uphold the decision of the regional council; or
 - “(b) to alter that decision.
- “Compare: 1974 No 66 s 101L(3)

“19W Factors in determination of matters in relation to community boards

In determining the matters specified in paragraphs (a) to (i) of section 19J(2), the territorial authority and, where appropriate, the Commission must ensure—

- “(a) that, in the case of the matters specified in paragraphs (a) to (g) of section 19J(2), it has regard to such of the criteria as apply to reorganisation proposals under the Local Government Act 1974 or the Local Government Act 2002 as the territorial authority or the Commission considers appropriate in the circumstances; and
- “(b) that the election of members of the community board, in 1 of the ways specified in subparagraphs (i) to (iii) of section 19J(2)(h), will provide effective representation of communities of interest within the community and fair representation of electors; and
- “(c) that the boundaries of every community, and of every subdivision of a community, coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

“Compare: 1974 No 66 ss 101ZH(2), 101ZL

“19X Certificate of Government Statistician

“(1) For the purposes of sections 19H to 19W, the certificate of the Government Statistician as to the population of any region, district, constituency, ward, community, or subdivision or any proposed constituency, ward, community, or subdivision is to be—

- “(a) a certificate of the ordinarily resident population as shown by the figures for the most recently published census (other than the figures for a census carried out in the year before a triennial general election of a territorial authority or regional council or the year in which such an election is to be held); or
- “(b) a certificate of the ordinarily resident population as assessed by the Government Statistician at any later date assessed by the Government Statistician.

- “(2) Every territorial authority and every regional council must supply to the Government Statistician such information as may be required by the Government Statistician concerning the definition of any area to which any certificate of the kind referred to in subsection (1) is to relate.

“Compare: 1974 No 66 s 101L(5)

“19Y When determinations take effect

- “(1) If there are no submissions on the proposal publicly notified under section 19M by a territorial authority or regional council, or if there are no appeals against, or objections to, a resolution publicly notified under section 19N(1) by a territorial authority or a regional council, the proposal or amended proposal, as the case may be, becomes the basis for election at the next triennial general election of the territorial authority or regional council or community board, and continues in effect until a subsequent determination under this Part comes into effect, and the territorial authority or regional council must give public notice accordingly of that basis for election.
- “(2) As soon as practicable after the publication of a public notice under subsection (1), the territorial authority or regional council by which that notice was given must—
- “(a) send a copy of that notice to—
 - “(i) the Commission; and
 - “(ii) the Surveyor-General; and
 - “(iii) the Government Statistician; and
 - “(iv) the Higher Salaries Commission or the Remuneration Authority; and
 - “(v) the Secretary for Local Government; and
 - “(b) if that notice was given by a territorial authority, send a copy of that notice to any regional council for a region in which the district of the territorial authority or a part of that district is situated; and
 - “(c) if that notice was given by a regional council, send a copy of that notice to every territorial authority whose district or a part of whose district is within the region.
- “(3) If a territorial authority or a regional council has, under subsection (1), or the Commission has, under section 19S(1), given public notice of the basis of election for the next triennial gen-

eral election for a territorial authority or regional council or community board, no such basis has effect unless—

- “(a) a description or plan of each ward or constituency or community or subdivision has been sent to the Surveyor-General; and
 - “(b) the Surveyor-General, or a person appointed by the Surveyor-General, certifies that the description or plan is sufficient to render the boundaries of each ward or constituency or community or subdivision capable of identification.
- “(4) If the description of any ward or constituency or community or subdivision to which subsection (3) applies is defective, but the Surveyor-General, or a person appointed by the Surveyor-General, certifies that it can be amended and the defect overcome without making any change in what was evidently intended to be the area comprised in the description, the description—
- “(a) may be so amended by resolution; and
 - “(b) if so amended, has effect as if the provisions of subsection (3) had been complied with.
- “(5) The territorial authority or regional council must reimburse the Commission for any costs incurred by the Commission in obtaining the certificate required by subsection (3) or must meet the cost of the production of that certificate if required to do so by the Surveyor-General.
- “(6) The following provisions apply to every determination of the Commission under this section:
- “(a) it is to come into force at the next triennial general election, except so far as may be necessary to provide for that election; and
 - “(b) a copy must be kept at the office of the territorial authority or regional council, and must be available for inspection without fee by any person during normal office hours.

“Compare: 1974 No 66 s 101M

“Maori wards and Maori constituencies

“19Z Territorial authority or regional council may resolve to establish “Maori wards or Maori constituencies

- “(1) Any territorial authority may resolve that the district be divided into 1 or more Maori wards for electoral purposes.
- “(2) Any regional council may resolve that the region be divided into 1 or more Maori constituencies for electoral purposes.
- “(3) A resolution under this section,—
- “(a) if made after a triennial general election but no later than 23 November of the year that is 2 years before the next triennial general election, takes effect, subject to paragraph (c), for the purposes of the next triennial general election of the territorial authority or regional council; and
 - “(b) in any other case, takes effect, subject to paragraph (c), for the purposes of the next but one triennial general election; and
 - “(c) in either case, takes effect for 2 triennial general elections of the territorial authority or regional council, and any associated election, and continues in effect after that until either—
 - “(i) a further resolution under this section takes effect; or
 - “(ii) a poll of electors of the territorial authority or regional council held under section 19ZF takes effect.
- “(4) This section is subject to section 19ZE and to clauses 2(4) and 4(4) of Schedule 1A.
- “(5) In this section and in sections 19ZB to 19ZG, **associated election**, in relation to any 2 successive triennial general elections of a territorial authority or regional council, 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 under section 255(1)(b) or Schedule 15 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 general election.

“19ZA Public notice of right to demand poll

- “(1) A territorial authority or regional council that passes a resolution under section 19Z must give public notice, not later than the required date, of the right to demand, under section 19ZB, a poll on the question whether,—
 - “(a) in the case of a territorial authority, the district should be divided into 1 or more Maori wards; or
 - “(b) in the case of a regional council, the region should be divided into 1 or more Maori constituencies.
- “(2) The public notice under subsection (1) must include—
 - “(a) notice of the resolution under section 19Z; and
 - “(b) a statement that a poll is required to countermand that resolution.
- “(3) In subsection (1), **required date** means,—
 - “(a) in the case of a resolution under section 19Z that is made after a triennial general election but not later than 23 November of the year that is 2 years before the next triennial general election, 30 November in that year;
 - “(b) in the case of a resolution under section 19Z that is made at some other time, the date that is 7 days after the date of the resolution.
- “(4) This section is subject to section 19ZE.

“19ZB Electors may demand poll

- “(1) A specified number of electors of a territorial authority or regional council may, at any time, demand that a poll be held on the question whether,—
 - “(a) in the case of a territorial authority, the district should be divided into 1 or more Maori wards; or
 - “(b) in the case of a regional council, the region should be divided into 1 or more Maori constituencies.

- “(2) This section is subject to section 19ZE.
- “(3) In this section and sections 19ZC and 19ZD,—
- “**demand** means a demand referred to in subsection (1)
- “**specified number of electors**, in relation to a territorial authority or regional council, means a number of electors equal to or greater than 5% of the number of electors enrolled as eligible to vote at the previous triennial general election of the territorial authority or regional council.

“**19ZC Requirements for valid demand**

- “(1) A demand must be made by notice in writing—
- “(a) signed by a specified number of electors; and
- “(b) delivered to the principal office of the territorial authority or regional council.
- “(2) An elector may sign a demand and be treated as 1 of the specified number of electors only if,—
- “(a) in the case of a territorial authority, the name of the elector appears on the electoral roll of the territorial authority; or
- “(b) in the case of a regional council, the name of the elector appears on the electoral roll of a territorial authority and the elector’s address as shown on that roll is within the region; or
- “(c) in a case where the name of an elector does not appear on a roll in accordance with paragraph (a) or paragraph (b),—
- “(i) the name of the elector is included on the most recently published electoral roll for any electoral district under the Electoral Act 1993 or is currently the subject of a direction by the Chief Registrar under section 115 of that Act (which relates to unpublished names); and
- “(ii) the address for which the elector is registered as a parliamentary elector is within the local government area of the territorial authority or regional council; or
- “(d) the address given by the elector who signed the demand—

- “(i) is confirmed by a Registrar of Electors as the address at which the elector is registered as a parliamentary elector; and
 - “(ii) is, if the demand was given to a territorial authority, within the district of the territorial authority; or
 - “(iii) is, if the demand was delivered to a regional council, within the region of the regional council; or
 - “(e) the elector has enrolled, or has been nominated, as a ratepayer elector and is qualified to vote as a ratepayer elector in elections of the territorial authority or, as the case may require, the regional council.
- “(3) Every elector who signs a demand must state, against his or her signature,—
- “(a) the elector’s name; and
 - “(b) the address for which the person is qualified as an elector of the territorial authority or regional council.
- “(4) If a valid demand is received after 28 February in the year before the next triennial general election, the poll required by the demand—
- “(a) must be held after 21 May in that year; and
 - “(b) has effect in accordance with section 19ZG(4) (which provides that the poll has effect for the purposes of the next but one triennial general election and the subsequent triennial general election).
- “(5) The chief executive of the territorial authority or regional council must, as soon as practicable, give notice to the electoral officer of every valid demand for a poll made in accordance with section 19ZB and this section.
- “(6) This section is subject to section 19ZE.

“19ZD Territorial authority or regional council may resolve to hold poll

- “(1) A territorial authority or regional council may, at any time, resolve that a poll be held on the question whether,—
- “(a) in the case of a territorial authority, the district should be divided into 1 or more Maori wards; or

- “(b) in the case of a regional council, the region should be divided into 1 or more Maori constituencies.
- “(2) A resolution under subsection (1) may, but need not, specify the date on which the poll is to be held.
- “(3) The date specified for the holding of a poll must not be a date that would require deferral of the poll under section 138A.
- “(4) The chief executive of the territorial authority or regional council must give notice to the electoral officer under subsection (1),—
 - “(a) if no date for the holding of the poll is specified in the resolution, as soon as is practicable;
 - “(b) if a date for the holding of the poll is specified in the resolution, at an appropriate time that will enable the poll to be conducted in accordance with section 19ZF(3).
- “(5) This section is subject to section 19ZE.

“19ZE Limitation on division into Maori wards or Maori constituencies

Sections 19Z to 19ZD do not apply, in relation to a territorial authority or regional council, if—

- “(a) a poll on the proposal described in section 19ZB or section 19ZD held under section 19ZF took effect at the previous triennial general election of the territorial authority or regional council or takes effect at the next triennial general election of the territorial authority or regional council; or
- “(b) another enactment requires that the district be divided into 1 or more Maori wards or the region be divided into 1 or more Maori constituencies.

“19ZF Poll of electors

- “(1) If the electoral officer for a territorial authority or regional council receives notice under section 19ZC(5) or section 19ZD(4), the electoral officer must, as soon as practicable after receiving that notice, give public notice of the poll under section 52.

- “(2) Despite subsection (1), if an electoral officer for a territorial authority or regional council receives 1 or more notices under both section 19ZC(5) and section 19ZD(4), or more than 1 notice under either section, in any period between 2 triennial general elections, the polls required to be taken under each notice may, to the extent that those polls would, if combined, take effect at the same general election, and if it is practicable to combine those polls, be combined.
- “(3) A poll held under this section must be held not later than 82 days after the date on which—
- “(a) the notice referred to in subsection (1) is received; or
 - “(b) the last notice referred to in subsection (2) is received.
- “(4) Subsection (3) is subject to subsection (2), section 19ZC(4), and section 138A.
- “(5) Every poll under this section that is held in conjunction with a triennial general election or held after that date but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held determines whether, for the next 2 triennial general elections for the territorial authority or regional council and any associated election,—
- “(a) the district of the territorial authority is to be divided into 1 or more Maori wards; or
 - “(b) the region of the regional council is to be divided into 1 or more Maori constituencies.
- “(6) Every poll under this section that is held at some other time determines whether, for the next but one triennial general election and the following triennial general election for the territorial authority or regional council and any associated election,—
- “(a) the district of the territorial authority is to be divided into 1 or more Maori wards; or
 - “(b) the region of the regional council is to be divided into 1 or more Maori constituencies.
- “(7) Subsections (5) and (6) are subject to clauses 2(5) and 4(4) of Schedule 1A.

“19ZG Effect of poll

- “(1) Subsection (2) applies to a poll held in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held.
- “(2) If the result of a poll to which this subsection applies requires the division of the district of a territorial authority into 1 or more Maori wards, or the division of the region of a regional council into 1 or more Maori constituencies, that district or region must be divided into those wards or constituencies, as the case requires,—
- “(a) in the case of a territorial authority, for the next 2 triennial general elections of the territorial authority, and any associated election; and
 - “(b) in the case of a regional council, for the next 2 triennial general elections of the regional council, and any associated election; and
 - “(c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, until a further resolution under section 19Z takes effect or a further poll held under section 19ZF takes effect, whichever occurs first.
- “(3) Subsection (4) applies to a poll held at some other time.
- “(4) If the result of a poll to which this subsection applies requires the division of a territorial authority into 1 or more Maori wards, or the division of the region of a regional council into 1 or more Maori constituencies, that district or region must be divided into those wards or constituencies, as the case requires,—
- “(a) in the case of a territorial authority, for the next but one triennial general election and the following triennial general election of the territorial authority, and any associated election; and
 - “(b) in the case of a regional council, for the next but one triennial general election and the following triennial general election of the regional council, and any associated election; and

- “(c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, until a further resolution under section 19Z takes effect or a further poll held under section 19ZF takes effect, whichever occurs first.
- “(5) This section is subject to clauses 2(5) and 4(4) of Schedule 1A.

“19ZH Basis of election of territorial authority and regional council

If, for the purpose of a triennial general election,—

- “(a) a district of a territorial authority is required to be divided into 1 or more Maori wards; or
- “(b) a region of a regional council is required to be divided into 1 or more Maori constituencies,—the provisions of this Part (other than those of sections 19B, 19G, and 19J, and those of this section) are subject to the provisions of Schedule 1A.

“Guidelines

“19ZI Guidelines in relation to reviews of representation

- “(1) The Commission must issue guidelines identifying factors and considerations for territorial authorities or regional councils to take into account in making determinations under any of the provisions of sections 19H to 19J and Schedule 1A.
- “(2) The Commission may, from time to time, amend or revoke any guidelines issued under subsection (1).
- “(3) Any guidelines issued under subsection (1) may relate to territorial authorities or regional councils generally or to a specific class of territorial authorities or regional councils.
- “(4) The Commission must, as soon as practicable after issuing any guidelines under subsection (1),—
 - “(a) send a copy of those guidelines to every territorial authority and every regional council; and
 - “(b) publish in the *Gazette* a notice—
 - “(i) stating that the guidelines have been issued; and

- “(ii) naming the place or places at which copies of the guidelines are available for inspection free of charge or for purchase or both.
- “(5) The Commission must ensure that, so long as the guidelines remain in force, copies of the guidelines are available—
 - “(a) for inspection by members of the public free of charge; and
 - “(b) for supply to members of the public either free of charge or for purchase at a reasonable price.
- “(6) The provisions of subsections (4) and (5) apply, with all necessary modifications, in respect of any amendment or revocation of any guidelines issued under subsection (1).”

7 New sections 24A to 24F inserted

The principal Act is amended by inserting, before section 25, the following sections:

“24A Electors of Maori wards

- “(1) In the case of a triennial general election, every residential elector of a district who, on the day before polling day for the election,—
 - “(a) is registered as a parliamentary elector at an address within a Maori ward; and
 - “(b) is registered as an elector of a Maori electoral district,—is, at that triennial general election, an elector of that Maori ward.
- “(2) In the case of a triennial general election, every person who, on the day before polling day for the election, is a ratepayer elector of a district—
 - “(a) whose entitlement as an elector arises in respect of property in a Maori ward; and
 - “(b) who is registered as an elector of a Maori electoral district,—is, at that general election, an elector of that Maori ward.
- “(3) In the case of an election to fill an extraordinary vacancy or an election called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, every residential elector of a district who, on the day before polling day for the election,—

- “(a) is registered as a parliamentary elector at an address within a Maori ward; and
 - “(b) is registered as an elector of a Maori electoral district,—is, at that election, an elector of that Maori ward.
- “(4) In the case of an election to fill an extraordinary vacancy or an election called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, every person who, on the day before polling day for the election, is a ratepayer elector of a district—
- “(a) whose entitlement as an elector arises in respect of property in a Maori ward; and
 - “(b) who is registered as a elector of a Maori electoral district,—is, at the election, an elector of that Maori ward.
- “Compare: 2001 No 1 (L) s 10(1)(a), (2)(a)

“24B Voting rights at triennial general election of territorial authority

- “(1) A person who, under section 24A, is an elector of a Maori ward of a territorial authority is, at a triennial general election,—
- “(a) entitled to vote—
 - “(i) at the election of the mayor; and
 - “(ii) at the election of the member or members who will represent that Maori ward; and
 - “(iii) at the election of the member or members (if any) to be elected to represent the whole of the district; and
 - “(iv) at the election of the member or members of the appropriate community board (if any) situated within or partly within the Maori ward; but
 - “(b) not entitled to vote at the election of the member or members who will represent any other ward of the territorial authority.
- “(2) No other person is entitled, at a triennial general election, to vote at the election of the member or members who will represent that Maori ward of that territorial authority.
- “Compare: 2001 No 1 (L) s 11

“24C Voting rights at election to fill extraordinary vacancy in respect of Maori ward

- “(1) A person who, under section 24A, is an elector of a Maori ward of a territorial authority is, at any election to fill an extraordinary vacancy in the office of a member who represents that Maori ward, entitled to vote at that election.
- “(2) No other person is entitled to vote at any election to fill an extraordinary vacancy in the office of a member who will represent that Maori ward of that territorial authority.

“Compare: 2001 No 1 (L) s 12

“24D Electors of Maori constituencies

- “(1) In the case of a triennial general election, every residential elector of a region who, on the day before polling day for the election,—
- “(a) is registered as an elector at an address within a Maori constituency; and
 - “(b) is registered as an elector of a Maori electoral district,—is, at that triennial general election, an elector of that Maori constituency.
- “(2) In the case of a triennial general election, every person who, on the day before polling day for the election, is a ratepayer elector of a region—
- “(a) whose entitlement as an elector arises in respect of property in a Maori constituency; and
 - “(b) who is registered as an elector of a Maori electoral district,—is, at that triennial general election, an elector of that Maori constituency.
- “(3) In the case of an election to fill an extraordinary vacancy or an election called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, every residential elector of a region who, on the day before polling day for the election,—
- “(a) is registered as a parliamentary elector at an address within a Maori constituency; and
 - “(b) is registered as an elector of a Maori electoral district,—is, at that election, an elector of that Maori constituency.
- “(4) In the case of an election to fill an extraordinary vacancy or an election called under section 255(1)(b) or Schedule 15 of the

Local Government Act 2002, every person who, on the day before polling day for the election, is a ratepayer elector of the region—

- “(a) whose entitlement as an elector arises in respect of property in a Maori constituency; and
- “(b) who is registered as an elector of a Maori electoral district,—is, at that election, an elector of that Maori constituency.

“Compare: 2001 No 1 (L) s 10(1)(a), (2)(a)

“24E Voting rights at triennial general election of regional council

“(1) A person who, under section 24D, is an elector of a Maori constituency of a regional council is, at a triennial general election,—

- “(a) entitled to vote at the election of the member or members who will represent that constituency; but
- “(b) not entitled to vote at the election of the member or members who will represent any other constituency of the regional council.

“(2) No other person is entitled, at a triennial general election, to vote at the election of the member or members who will represent that Maori constituency of that regional council.

“Compare: 2001 No 1 (L) s 11

“24F Voting rights at election to fill extraordinary vacancy in respect of Maori constituency

“(1) A person who, under section 24D, is an elector of a Maori constituency of a regional council is, at any election to fill an extraordinary vacancy in the office of a member who represents that Maori constituency, entitled to vote at that election.

“(2) No other person is entitled to vote at any election to fill an extraordinary vacancy in the office of a member who will represent that Maori constituency of that regional council.

“Compare: 2001 No 1 (L) s 12.”

8 Candidate qualifications

Section 25 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) Every parliamentary elector is qualified to be a candidate at every election to be held under this Act if that person is a New Zealand citizen.”

9 Local authority may resolve to change electoral systems

(1) Section 27(1) of the principal Act is amended by omitting the words “that triennial general election”, and substituting the words “the next 2 triennial general elections of the local authority and its community boards (if any), and any associated election,”.

(2) Section 27(2) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) takes effect, subject to paragraph (b), for the next 2 triennial general elections of the local authority and its community boards (if any), and any associated election; and.”

(3) Section 27(2)(b) of the principal Act is amended by omitting from subparagraph (ii) the words “is held under section 33”, and substituting the words “held under section 33 takes effect”.

(4) Section 27 of the principal Act is amended by adding the following subsection:

“(4) 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 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 255(1)(b) or Schedule 15 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 general election.”

10 Public notice of right to demand poll on electoral system

(1) Section 28(1) of the principal Act is amended by omitting the words “next 2 triennial general elections of the local authority and its community boards (if any)”, and substituting the words

“elections of the local authority and its community boards (if any)”.

- (2) Section 28(2) of the principal Act is amended by omitting the words “in respect of”, and substituting the words “that takes effect at”.
- (3) Section 28 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) Despite subsections (1) and (2), if, on or before the date referred to in subsection (1), the local authority has passed a resolution under section 31 and has specified a date for the holding of the poll that is on or before 21 May in the year before the next triennial general election, subsection (1) does not apply.”

11 Electors may demand poll

Section 29(1) of the principal Act is amended by omitting the words “demand that a poll be held on a proposal by those electors that a specified electoral system be used at the next 2 triennial elections of the local authority and its community boards (if any)”, and substituting the words “, at any time, demand that a poll be held on a proposal by those electors that a specified electoral system be used at the elections of the local authority and its community boards (if any)”.

12 Requirements for valid demand

- (1) Section 30(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) delivered to the principal office of the local authority.”
- (2) Section 30 of the principal Act is amended by inserting, after subsection (3), the following subsection:

“(3A) If a valid demand is received after 28 February in the year before the next triennial general election, the poll required by the demand—

 - “(a) must be held after 21 May in that year; and
 - “(b) has effect in accordance with section 34(2) (which provides that the poll has effect for the purposes of the next but one triennial general election of the local authority and the subsequent triennial general election).”

- (3) Section 30(4) of the principal Act is amended by omitting the words “principal administrative officer”, and substituting the words “chief executive”.

13 Local authority may resolve to hold poll

- (1) Section 31 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) A local authority may, no later than 28 February in the year immediately before the year in which the next triennial general election is to be held, resolve that a poll be held on a proposal that a specified electoral system be used for the elections of the local authority and its community boards (if any).

“(2) A resolution may, but need not, specify a date on which the poll is to be held.

“(2A) The date specified for the holding of a poll must not be a date that would require deferral of the poll under section 138A.”

- (2) Section 31 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) The chief executive of the local authority must give notice to the electoral officer of any resolution under subsection (1),—

“(a) if no date for the holding of the poll is specified in the resolution, as soon as is practicable:

“(b) if a date for the holding of the poll is specified in the resolution, at an appropriate time that enables the poll to be conducted in accordance with section 33(3).”

14 Limitation on change to electoral systems

Section 32 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) a poll on the proposal described in section 29 or section 31 held under section 33 took effect at the previous triennial general election of the local authority or takes effect at the next triennial general election of the local authority:”

15 Poll of electors

- (1) Section 33 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- “(2) Despite subsection (1), if an electoral officer for a local authority receives 1 or more notices under both sections 30(4) and 31(3), or more than 1 notice under either section, in any period between 2 triennial general elections, the polls required to be taken under each notice may, to the extent that the result of those polls would take effect at the same election, and if it is practicable to combine those polls, be combined.”
- (2) Section 33 of the principal Act is amended by inserting, after subsection (3), the following subsections:
- “(3A) Subsection (3) is subject to subsection (2), section 30(3A) and section 138A.
- “(3B) Voters at a poll held under this section decide the proposal or proposals that are the subject of the poll by voting for one of the electoral systems named in the voting document or, as the case may require, expressing a preference in respect of each of the electoral systems named in the voting document.”
- (3) Section 33 of the principal Act is amended by repealing subsection (4), and substituting the following subsections:
- “(4) Every poll under this section that is held in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held determines whether the electoral system to be used for the next 2 triennial general elections of the local authority and its community boards (if any) and any associated election is to be—
- “(a) the electoral system used at the previous general election of the local authority; or
- “(b) the electoral system specified in any resolution under section 27; or
- “(c) the electoral system specified in any demand submitted within the appropriate period of which the electoral officer has received notice under section 30(4) and, if notice of more than 1 such demand is received, one of the systems specified in those demands and, if so, which one; or
- “(d) the electoral system specified in any resolution of which the electoral officer has received notice under section 31(3).

- “(5) Every poll under this section that is held at some other time determines whether the electoral system to be used at the next but one triennial general election of the local authority and its community boards (if any) and any associated election is to be—
- “(a) the electoral system used at the previous general election of the local authority; or
 - “(b) the electoral system specified in any resolution under section 27; or
 - “(c) the electoral system specified in any demand submitted within the appropriate period of which the electoral officer has received notice under section 30(4) and, if notice of more than 1 such demand is received, 1 of the systems specified in those demands and, if so, which one; or
 - “(d) the electoral system specified in any resolution of which the electoral officer has received notice under section 31(3).”

16 New section 34 substituted

The principal Act is amended by repealing section 34, and substituting the following section:

“34 Effect of poll

- “(1) If a poll is held under section 33 in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held, the electoral system adopted or confirmed must be used—
- “(a) for the next 2 triennial general elections:
 - “(b) for any associated election:
 - “(c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, until a further resolution under section 27 takes effect or a further poll held under section 33 takes effect, whichever occurs first.
- “(2) If a poll is held under section 33 at some other time, the electoral system adopted or confirmed must be used—

- “(a) for the next but one triennial general election and the following triennial general election:
- “(b) for any associated election:
- “(c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 255(1)(b) or Schedule 15 of the Local Government Act 2002, until a further resolution under section 27 takes effect or a further poll held under section 33 takes effect, whichever occurs first.”

17 Supply of information by Chief Registrar of Electors

Section 41 of the principal Act is amended by adding, as subsections (2) and (3), the following subsections:

- “(2) The electoral officer may request the Chief Registrar of Electors to inform the electoral officer if any person who is qualified as a ratepayer of a region, district, or community is registered as a parliamentary elector of a Maori electoral district.
- “(3) If the Chief Registrar of Electors receives a request under subsection (2), the Chief Registrar must provide the information requested by the electoral officer, if the electoral officer has provided adequate identifying information.”

18 Notice of election or poll

Section 52(1) of the principal Act is amended by repealing paragraph (g).

19 Nomination of candidates

- (1) Section 55(2) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:
 - “(ba) each of the persons who nominated the candidate are persons other than the candidate; and”
- (2) Section 55(2) of the principal Act is amended by repealing paragraph (e), and substituting the following paragraph:
 - “(e) the electoral officer—
 - “(i) receives the deposit prescribed for the applicable class of elections; and
 - “(ii) receives that deposit before 12 noon on nomination day.”

20 Name of candidate

Section 56(c) of the principal Act is amended by repealing subparagraph (iii), and substituting the following subparagraph:

“(iii) is, or includes or resembles, an official title or rank; or.”

21 New sections 57A and 57B inserted

The principal Act is amended by inserting, after section 57, the following sections:

“57A Candidacy for more than 1 ward or constituency or subdivision prohibited

No person may, at the same time, be a candidate for election for more than 1 ward or constituency of the same local authority or for more than 1 subdivision of a community.

“57B Candidacy for ward and membership at large prohibited

No person may, at the same time, be a candidate for election in a ward and a candidate for election by the electors of the district as a whole as a member of the territorial authority of which that ward forms part.”

22 New section 58A inserted

The principal Act is amended by inserting, after section 58, the following section:

“58A Prohibition on candidacy for community board

“(1) No member of a territorial authority may be a candidate for election as a member of a community board that is constituted in respect of part of the district of the territorial authority.

“(2) Subsection (1) does not apply if a general election of members of the territorial authority is to be held at the same time as a general election of members of the community board.”

23 Forfeiture of deposit and refund of deposit

Section 59 of the principal Act is amended by repealing subsection (2), and substituting the following subsections:

“(2) The deposit must be returned to the person who paid it or, as the case may require, to his or her personal representatives if—
“(a) subsection (1) does not apply to the candidate or the candidate—

- “(i) withdraws or retires; or
 - “(ii) is elected without an election; or
 - “(iii) dies before the close of voting; or
 - “(iv) becomes incapable under this or any other Act of holding the office for which he or she was a candidate before the close of voting; and
- “(b) the candidate (other than a candidate who dies before the close of voting) complies with section 109 (which requires candidates to file a return of election expenses).
- “(3) Subsection (2)(a) overrides subsection (1).”

24 Candidate profile statements

- (1) Section 61(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) must be provided to the electoral officer before 12 noon on nomination day; and.”
- (2) Section 61(2)(c) of the principal Act is amended by inserting, after the words “independent candidate”, the words “, and the candidate’s contact details”.
- (3) Section 61(4)(b) of the principal Act is amended by inserting, before the words “specify a period”, the words “unless the candidate profile statement does not comply with subsection (2)(b),”.
- (4) Section 61(5) of the principal Act is amended by omitting the expression “subsection (4)”, and substituting the expression “subsection (4)(b)”.

25 Further notice to electors of election or poll

- Section 65(2) of the principal Act is amended by inserting, after paragraph (d), the following paragraph:
- “(da) state whether a resolution has been made under section 79 that voting documents are to be processed during the voting period; and.”

26 General rules affecting scrutineers

- (1) Section 68(1) of the principal Act is amended by omitting the words “7 days before the commencement of the voting period

at the election or poll”, and substituting the words “24 hours before the close of voting at the election or poll”.

- (2) Section 68 of the principal Act is amended by repealing subsection (5), and substituting the following subsections:
- “(5) Subject to subsection (4), any scrutineer—
- “(a) may be present when—
 - “(i) any step referred to in section 80 is being completed after the close of voting; or
 - “(ii) a scrutiny to which section 83 applies is being conducted; or
 - “(iii) votes are being counted under section 84; and
 - “(b) may, while votes are being counted under section 84, inspect any voting documents (whether formal or informal) that are the subject of the count.
- “(6) An electoral officer may, at the request of a scrutineer or candidate made before the close of voting at an election, or at the request of a scrutineer made before the close of voting at a poll, supply to that scrutineer or candidate the names of persons from whom voting documents have been received, either at no cost or for a reasonable price, and in a format that the electoral officer considers appropriate.”

27 Retirement, death, incapacity, or invalid nomination of a candidate

Section 71 of the principal Act is amended by repealing subsection (5), and substituting the following subsections:

- “(5) If the electoral system used at the election is First Past the Post, any vote cast for a retired, deceased, or incapacitated candidate, or for a candidate whose nomination is invalid, or for a candidate who is no longer available for election under section 84, is void.
- “(6) If the electoral system used at the election is Single Transferable Voting, any preference recorded on a voting document for a retired, deceased, or incapacitated candidate, or for a candidate whose nomination is invalid, or for a candidate who is no longer available for election under section 84, must not be recorded at the count as a preference for that person, but must instead be treated in accordance with regulations made under this Act.”

28 New section 79 substituted

The principal Act is amended by repealing section 79, and substituting the following section:

“79 Early processing of votes

- “(1) A territorial authority may determine, by resolution, that the voting documents in respect of a triennial general election, or a poll or election conducted in conjunction with a triennial general election, are to be processed during the voting period.
- “(2) A local authority may determine, by resolution, that the voting documents in respect of any election or poll (other than a triennial general election or a poll conducted in conjunction with a triennial general election) are to be processed during the voting period.
- “(3) Subsection (2) does not limit subsection (1).”

29 Scrutineers’ presence at processing prohibited before close of voting

Section 81 of the principal Act is amended by repealing subsections (2) and (3).

30 Counting of votes

Section 84 of the principal Act is amended by inserting, after subsection (5), the following subsections:

- “(5A) Subsections (5B) to (5D) apply if elections for the position of a member or members of a territorial authority and a member or members of any of its community boards are held at the same time using either the Single Transferable Voting electoral system or the First Past the Post electoral system.
- “(5B) If the electoral officer is satisfied, after the close of voting, that any person who is a candidate for the position of member of a territorial authority and is also a candidate at the election of the member or members of any of its community boards will be declared to be elected as a member of the territorial authority, the electoral officer must endorse that opinion on the candidate’s nomination form for the position of member of the territorial authority.
- “(5C) If the electoral officer makes an endorsement under subsection (5B), that candidate ceases to be available for election, and

cannot be elected at the election of the member or members of the community board.

“(5D) If, for any reason, a person is declared to be elected as a member of the territorial authority and that person is also elected to be a member of a community board, section 88A applies.”

31 New section 85 substituted

The principal Act is amended by repealing section 85, and substituting the following section:

“85 Preliminary results

The electoral officer must, in accordance with the prescribed requirements, make any announcements required by regulations made under this Act concerning the preliminary results of an election or poll.”

32 What happens if same person elected as mayor and another member

Section 88(3) of the principal Act is amended—

- (a) by inserting in paragraph (a)(i), after the word “determine”, the words “, in accordance with any regulations made under this Act,” ; and
- (b) by inserting in paragraph (b)(i), after the word “determine”, the words “, in accordance with any regulations made under this Act,”.

33 New sections 88A to 88F inserted

The principal Act is amended by inserting, after section 88, the following sections:

“88A What happens if same person elected to both territorial authority and community board

“(1) This section applies if, at any elections held at the same time for a member or members of a territorial authority and a member or members of a community board constituted in respect of part of the district of the territorial authority, a person is declared to be elected as a member of the territorial authority and that person is also declared to be elected as a member of the community board (and that person is not deprived of ei-

ther office by a recount under section 92 or on a petition under section 93).

- “(2) If this section applies, the person declared to be elected to both offices must be treated as having vacated office as a member of the community board.

“88B Amended declaration if election under First Past the Post electoral system

If section 88A applies and the elections were conducted using the First Past the Post electoral system, then,—

- “(a) subject to paragraphs (b) and (c), the electoral officer conducting the election of members of the community board must give an amended declaration under section 86 declaring the highest polling unelected candidate at the election to be elected; and
- “(b) if the part of the district in respect of which the community is constituted is divided into wards or subdivisions for electoral purposes, the electoral officer conducting the election must, subject to paragraph (c), give an amended declaration under section 86 declaring the highest polling unelected candidate at the election in the ward or subdivision (at which the person elected as a member of the territorial authority was also elected as a member of the community board) to be elected; and
- “(c) the electoral officer must, in determining for the purposes of paragraph (a) or paragraph (b) the person who is the highest polling unelected candidate, ignore any unelected candidate for membership of the community board who was elected as a member of the territorial authority.

“88C Amended declaration if election under Single Transferable Voting electoral system

If section 88A applies and the elections were conducted using the Single Transferable Voting electoral system, then,—

- “(a) subject to paragraphs (b) and (c), the electoral officer must—
- “(i) determine, in accordance with any regulations made under this Act, the unelected candidate who

- would have been declared to be elected as a member of the community board if the person elected as a member of the territorial authority had not stood at the election; and
- “(ii) give an amended declaration under section 86 declaring that unelected candidate to be elected:
- “(b) if the part of the district in respect of which the community is constituted is divided into wards or subdivisions for electoral purposes, the electoral officer conducting the election must—
- “(i) determine, in accordance with any regulations made under this Act, the unelected candidate who would have been declared to be elected (at the election in the ward or subdivision at which the person who was elected as a member of the territorial authority was also elected as a member of the community board) if the person elected as a member of the territorial authority had not stood at that election; and
- “(ii) give an amended declaration under section 86 declaring that unelected candidate to be elected:
- “(c) the electoral officer must, in determining for the purposes of paragraph (a) or paragraph (b) the unelected candidate who is to be declared by the amended declaration to be elected, treat all persons who were elected as members of the territorial authority as if they had never stood for election as members of the community board.

“88D Application of provision relating to petition for inquiry

In every case to which section 88B or section 88C applies, the period of 21 days referred to in section 93(2) in respect of the person declared by that amended declaration to be elected as a member of the community board begins to run from the date of the amended declaration.

“88E What happens if no amended declaration can be made

- “(1) This section applies if, in any case to which section 88A applies, there is no other candidate who may lawfully be declared

to be elected by means of the amended declaration as a member of the community board.

- “(2) If this section applies, an extraordinary vacancy in the office of member of the community board is to be treated as having occurred on the date on which the person who was declared to be elected both as a member of the territorial authority and as a member of the community board came into office as a member of the territorial authority.

“88F What happens if member of community board becomes member of territorial authority

- “(1) This section applies if, at any election other than an election to which section 88A applies, a person who is a member of a community board constituted in respect of part of a district of a territorial authority is declared to be elected as a member of that territorial authority (and that person is not deprived of his or her office as a member of that territorial authority by a recount under section 92 or a petition under section 93).
- “(2) If this section applies, the person declared to be elected as a member of the territorial authority must be treated as having vacated office as a member of the community board.”

34 Interpretation

Section 104 of the principal Act is amended by omitting from the definition of **population** the words “under section 2(5) of the Local Government Act 1974”, and substituting the words “by the Government Statistician”.

35 Return to be open for public inspection

Section 110 of the principal Act is amended by omitting the words “principal administrative officer of the local authority, for a period of 6 months after it has been received by the electoral officer”, and substituting the words “chief executive of the local authority, for a period of 7 years after the date of the election to which it relates”.

- 36 Apportionment of electoral expenses**
Section 112(2) of the principal Act is amended by omitting the word “equally”, and substituting the word “equitably”.
- 37 When members leave office**
Section 116 of the principal Act is amended by adding, as subsection (2), the following subsection:
“(2) Despite subsection (1)(a), if a member’s office is the subject of an election, and neither the member nor any other person is elected at the election to that office, the member vacates office at the same time as any other member of the local authority who is not re-elected at the election.”
- 38 Extraordinary vacancy in local authority or community board**
Section 117(2) of the principal Act is amended by omitting the words “principal administrative officer”, and substituting the words “chief executive”.
- 39 New section 117A inserted**
The principal Act is amended by inserting, after section 117, the following section:
“**117A Power to fill by appointment extraordinary vacancy in community board**
If a local authority, despite complying with section 120, is unable to fill by election an extraordinary vacancy in the office of an elected member of a community board (being an extraordinary vacancy to which section 117(1) applies), the community board may (instead of having the local authority conduct a further election in accordance with section 120) determine by resolution that the vacancy will be filled by the appointment by the community board of a person named in the resolution who is qualified to be elected as a member.”
- 40 Notice of intention to fill vacancy by appointment**
Section 118(1) of the principal Act is amended by inserting, after the expression “section 117(3)(a)”, the expression “or section 117A”.

41 Election to fill extraordinary vacancy

Section 120(1)(a) of the principal Act is amended by omitting the words “principal administrative officer”, and substituting the words “chief executive”.

42 New section 135 substituted

- (1) The principal Act is amended by repealing section 135, and substituting the following section:

“135 Unauthorised advertisements

“(1) Every person commits an offence who wilfully contravenes section 113(1).

“(2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$1,000.”

- (2) Despite section 2 of the principal Act, this section and section 135 of the principal Act come into force on the date of the commencement of the Local Electoral Amendment Act 2002.

43 Duty to take action in respect of offences

Section 138 of the principal Act is amended by adding the following subsection:

- “(3) Despite subsection (1), an electoral officer is not required to report the failure by a candidate at an election to file the return required by section 109(1) within the period prescribed in section 109, if the candidate files that return promptly after being required by the electoral officer to file the return.”

44 New section 138A inserted

The principal Act is amended by inserting, after the heading to Part 8 of the principal Act, the following section:

“138A Special provision in relation to certain elections to fill extraordinary vacancies and certain polls

- “(1) Despite section 19ZF(3), section 33(3), and section 120(1),—
“(a) if an electoral officer receives a notice under section 19ZC(5), section 19ZD(4), section 30(4), section 31(3), or section 120(1)(a) in the period that begins on 28 September in any year and ends with the close of 20 November in that year, the polling day for the poll under section 19ZF or section 33, or for the election under sec-

tion 120(1), must be a day not earlier than 10 February in the following year; and

“(b) if an electoral officer receives a notice under section 19ZC(5), section 19ZD(4), section 30(4), section 31(3), or section 120(1)(a) in the period that begins on 21 November in any year and ends with the close of 15 December in that year, the polling day for the poll under section 19ZF or section 33, or for the election under section 120(1), must be a day not earlier than 7 March in the following year; and

“(c) if an electoral officer receives a notice under section 19ZC(5), section 19ZD(4), section 30(4), section 31(3), or section 120(1)(a) in the period that begins on 16 December in any year and ends with the close of 12 January in the following year, the polling day for the poll under section 19ZF or section 33, or for the election under section 120(1), must be a day not earlier than 4 April in that following year.

“(2) In any case to which paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) applies, the requirements of this Act apply as if the notice referred to in the paragraph had been received by the electoral officer on the last day of the period specified in that paragraph.”

Compare: 1976 No 144 s 50(1).

45 Regulations

Section 139(1) of the principal Act is amended by inserting, after paragraph (l), the following paragraph:

“(1a) regulating (in any way that is not inconsistent with Part 1A and Schedule 1A) the method of determining membership and the basis of election of local authorities:”

46 New section 140A inserted

The principal Act is amended by inserting, after section 140, the following section:

“140A Electoral systems

Regulations made under section 139(1)(b) may include (without limitation) provisions—

- “(a) authorising or requiring 1 counting program to be used for the purpose of implementing the New Zealand method of counting single transferable votes or authorising more than 1 counting program or authorising a class of counting programs to be used for that purpose:
- “(b) regulating the certification of 1 or more counting programs or any class of counting programs for the purpose of implementing the New Zealand method of counting single transferable votes:
- “(c) regulating the operating environment in which any counting program can be used for the purpose of implementing the New Zealand method of counting single transferable votes:
- “(d) regulating the way in which any other computer program can be used for the purposes of an election or poll under this Act:
- “(e) imposing conditions or restrictions in relation to the use of any such counting program or other computer program for the purposes of an election or poll under this Act.”

47 Transitional provisions relating to electoral systems

Section 153 of the principal Act is amended by inserting, after the words “(and any poll taken in conjunction with that election)”, the words “, and any election to fill an extraordinary vacancy held before the triennial general election in October 2004.”.

48 Schedule 1 amended

- (1) Schedule 1 of the principal Act is amended by—
- (a) omitting from the heading to the Schedule the words “Meek’s method of counting votes”, and substituting the words “New Zealand method of counting single transferable votes”:
 - (b) omitting the words “Meek’s method of counting votes” wherever they appear, and substituting in each case the words “New Zealand method of counting single transferable votes”:

- (c) omitting the words “Meek’s method of counting votes” wherever they appear, and substituting in each case the words “the New Zealand method of counting single transferable votes”.
- (2) Schedule 1 of the principal Act is amended by inserting, after the heading before clause 2, the following clause:

“1A Algorithm and article

The New Zealand method of counting single transferable votes is based on a method of counting votes developed by Brian Meek in 1969 that requires the use of Algorithm 123. That method (with developments) is described in an article in *The Computer Journal* (UK), Vol 30 No 3, 1987, pp 277-81 (the **article**). A discussion of the mathematical equations that prove the existence and uniqueness of that method is set out in the article. The New Zealand method of counting single transferable votes includes modifications to Meek’s method and incorporates certain rules relevant to the operation of New Zealand local electoral legislation.”

- (3) Schedule 1 of the principal Act is amended by repealing the heading above clause 7 and clause 7.
- (4) Schedule 1 of the principal Act is amended by repealing clause 8, and substituting the following heading and clause:

“Modifications to Algorithm 123

“8 Required modifications

Algorithm 123 (in the form described in the article) and the formulas and procedures proposed in the article must, for the purposes of designing and operating any counting program to implement the New Zealand method of counting single transferable votes, incorporate the following modifications:

- “(a) the formula used for determining the quota for election quoted in paragraph 2.5 of the article (ie, total votes—total excess)/(number of seats plus 1) must be modified to ensure that the calculation of the quota, keep value, and fractions of votes is to provide a result that is accurate to the ninth decimal place, with any remainder—
 - “(i) disregarded in the calculation of the quota; and
 - “(ii) rounded up for the purposes of other calculations:

- “(b) any other modifications required by regulations made under this Act.”
- (5) Clause 9 of Schedule 1 of the principal Act is amended—
- (a) by omitting the words “computer program”, and substituting the words “counting program”; and
 - (b) by omitting the words “authorised modifications”, and substituting the words “required modifications”.
- (6) Clause 10 of Schedule 1 of the principal Act is amended—
- (a) by omitting the words “computer program”, and substituting the words “counting program”; and
 - (b) by omitting the words “authorised modifications”, and substituting the words “required modifications”.
- (7) Clause 11 of Schedule 1 of the principal Act is amended—
- (a) by omitting the words “computer programs”, and substituting the words “counting program or programs”; and
 - (b) by omitting the words “any or all of the modifications authorised”, and substituting the words “any or all of the modifications required”.
- (8) Clause 13 of Schedule 1 of the principal Act is amended by adding, as subclause (2), the following subclause:
- “(2) In clauses 13 to 25, unless the context otherwise requires, every reference to a determination or any other action of an electoral officer at an election or poll includes an action taken automatically, without reference to the electoral officer, by a counting program or other computer program or other process used at the election or poll.”
- (9) Schedule 1 is amended by inserting, after clause 13, the following clause:
- “13A Withdrawal or exclusion of candidates**
- “(1) Before beginning to count the votes (whether for a mayoral or other single member vacancy, or for a multi-member vacancy), the electoral officer excludes any candidate to whom section 71 applies.
- “(2) During the count (whether for a mayoral or other single member vacancy, or for a multi-member vacancy), other candidates will automatically be excluded under the counting process if

they are required to be excluded from the count under this Act (for example, under section 84).”

- (10) Clause 14(1) of Schedule 1 is amended by omitting the words “commencing the official count”, and substituting the words “beginning to count the votes”.
- (11) Clause 18(1) of Schedule 1 is amended by omitting the words “Before commencing the official count”, and substituting the words “Before beginning to count the votes”.

49 New Schedule 1A inserted

The principal Act is amended by inserting, after Schedule 1, the Schedule 1A set out in Schedule 1 of this Act.

50 Declaration of Single Transferable Voting to be electoral system

- (1) Single Transferable Voting is—
 - (a) deemed to have been prescribed for use at an election or poll conducted under the principal Act, with effect on and after 14 October 2001; and
 - (b) deemed to be an electoral system (within the meaning of that term as defined in section 5(1) of the principal Act), with effect on and after 14 October 2001.
- (2) No action taken by a local authority or any other person on or after 14 October 2001 in reliance or purported reliance on any provision of the principal Act or any regulations made under the principal Act is invalid by reason that Single Transferable Voting was not prescribed for use at an election or poll conducted under the principal Act at the time that the action was taken.
- (3) In this section, **Single Transferable Voting** means Single Transferable Voting using either—
 - (a) Meek’s method of counting votes; or
 - (b) on and after the commencement of this section, the New Zealand method of counting single transferable votes.

51 Related amendments to New Zealand Public Health and Disability Act 2000

- (1) Section 92(1) of the New Zealand Public Health and Disability Act 2000 is amended by repealing paragraphs (g) and (h).
- (2) Schedule 2 of the New Zealand Public Health and Disability Act 2000 is amended by omitting from clause 9A the words “Meek’s method of counting votes”, and substituting the words “the New Zealand method of counting single transferable votes”.
- (3) Schedule 2 of the New Zealand Public Health and Disability Act 2000 is amended by inserting, after clause 9A, the following clause:
“(9B) The person appointed by a District Health Board under section 12 of the Local Electoral Act 2001 must be a person who is also the electoral officer of a territorial authority in whose district the District Health Board is wholly or partly situated.”
- (4) Schedule 2 of the New Zealand Public Health and Disability Act 2000 is amended by repealing clause 12(1) and (2).

52 Consequential amendments

The enactments specified in Schedule 2 are consequentially amended in the manner indicated in that schedule.

53 Repeals

The following enactments are repealed:

- (a) section 37(2) of the Electoral Amendment Act 2002;
- (b) section 5 of the Greytown District Trust Lands Amendment Act 1993;
- (c) section 149 of the principal Act;
- (d) sections 101C, 101CA, 101D, 101E, 101H, 101I, 101J, 101K, 101L, and 101M of the Local Government Act 1974;
- (e) the Sale of Liquor Amendment Act 1991.

54 Transitional provision relating to polls on electoral systems

- (1) Any valid demand under section 29(1) of the principal Act (as it read before the commencement of this section) in respect

of which no poll has been held before the commencement of this section must be treated, on and after the commencement of this section, as if it had been made under section 29(1) of the principal Act (as amended by section 11 of this Act).

- (2) Any demand under section 29(1) of the principal Act made after the commencement of this section which refers to the proposal described in section 29(1) of the principal Act (as it read before the commencement of this section) must be treated as a demand referring to the proposal described in section 29(1) of the principal Act (as amended by section 11 of this Act).
- (3) Any resolution made under section 31(1) of the principal Act (as it read before the commencement of this section) in respect of which no poll has been held before the commencement of this section must be treated, on and after the commencement of this section, as if it had been made under section 31(1) of the principal Act (as substituted by section 13 of this Act).
- (4) On and after the commencement of this section, any poll held under section 33 of the principal Act (as it read before the commencement of this section) takes effect as if it had been held under section 33 of the principal Act (as amended by section 15 of this Act).

55 Certain determinations to remain in effect

A determination that, immediately before the commencement of this section, was in effect under section 101K or section 101M of the Local Government Act 1974 continues in effect on and after the commencement of this section until a determination made under Part 1A of the principal Act replacing that determination comes into effect.

Schedule 1

s 49

**New Schedule 1A of Local Electoral Act
2001****Schedule 1A**

s 19ZH

**Provisions relating to Maori wards and
Maori constituencies****1 Review of representation arrangements for election of
territorial authority**

- (1) If, for the purposes of a triennial general election, a district of a territorial authority (being a district that is not already divided into 1 or more Maori wards) is required to be divided into 1 or more Maori wards, the territorial authority must, in the year immediately before the year in which the triennial general election is to be held, but not later than 31 August in the year immediately before the year in which the triennial general election is to be held, make a determination under section 19H.
- (2) That determination must be made as if the territorial authority were required by section 19H to determine by resolution, in accordance with Part 1A,—
 - (a) the proposed number of members of the territorial authority (other than the mayor); and
 - (b) whether—
 - (i) all of the proposed members of the territorial authority (other than the mayor) are to be separately elected by the electors of 1 or more Maori wards and the electors of 1 or more general wards; or
 - (ii) some of the proposed members of the territorial authority (other than the mayor) are to be elected by the electors of the district as a whole and some to be elected separately by the electors of 1 or more Maori wards and 1 or more general wards, and, if so, what number of members are to be elected by electors of the district as a whole, and what number are to be elected separately.
 - (c) the proposed number of members of the territorial authority to be elected by the electors of 1 or more Maori wards; and

Schedule 1A—*continued*

- (d) the proposed number of members of the territorial authority to be elected by electors of 1 or more general wards; and
 - (e) the proposed name and the proposed boundaries of each ward; and
 - (f) the number of members proposed to be elected by the electors of each Maori ward; and
 - (g) the number of members proposed to be elected by the electors of each general ward.
- (3) This clause does not limit section 19B(1).
Compare: 2001 No 1 (L) s 5

2 Calculation of number of Maori and general ward members

- (1) The number of members to be elected by the electors of 1 or more Maori wards of the district of a territorial authority (**Maori ward members**) is to be determined in accordance with the following formula:

$$nmm = \frac{mepd}{mepd + gepd} \times nm$$

where—

nmm is the number of Maori ward members

mepd is the Maori electoral population of the district

gepd is the general electoral population of the district

nm is the proposed number of members of the territorial authority (other than the mayor).

- (2) If a determination is made under clause 1(2)(b)(ii), the definition of **nm** in the formula must be applied as if for the words ‘proposed number of members of the territorial authority (other than the mayor)’ there were substituted the words ‘proposed number of members of the territorial authority (other than the mayor and the members to be elected by electors of the district as a whole)’.
- (3) If the number of the Maori ward members (other than the mayor) calculated under subclause (1) includes a fraction, the fraction must be disregarded unless it exceeds a half. If the

Schedule 1A—*continued*

fraction exceeds a half, the number of Maori ward members must be the next whole number above the number that includes the fraction.

- (4) The number of members to be elected by the electors of 1 or more general wards is to be determined by subtracting from the proposed number of members of the territorial authority (other than the mayor, or, if the case requires, other than the mayor and the members of the territorial authority to be elected by electors of the district as a whole) the number of Maori ward members, as calculated under subclauses (1) and (3).
- (5) Despite Part 1A and the other provisions of this schedule, if the number of Maori ward members, as determined in accordance with the method of calculation in this clause, is zero (because the number of Maori ward members as so determined is a fraction of the whole number 1 that does not exceed one half),—
 - (a) the district must not be divided into 1 or more Maori wards and 1 or more general wards:
 - (b) the provisions of clauses 1, 5, and 6 of this schedule must not be applied for the purposes of any determination under section 19H or section 19R.

Compare: 2001 No 1 (L) s 6

3 Review of representation arrangements for election of regional council

- (1) If, for the purposes of a triennial general election, a region of a regional council (being a region that is not already divided into 1 or more Maori constituencies) is required to be divided into 1 or more Maori constituencies, the regional council must, in the year immediately before the year in which the triennial general election is to be held, but not later than 31 August in the year immediately before the year in which the triennial general election is to be held, make a determination under section 19I.
- (2) That determination must be made as if the regional council were required by section 19I to determine by resolution, in accordance with Part 1A,—
 - (a) the proposed number of members of the regional council; and

Schedule 1A—*continued*

- (b) the proposed number of members of the regional council to be elected by the electors of 1 or more Maori constituencies; and
- (c) the proposed number of members of the regional council to be elected by electors of 1 or more general constituencies; and
- (d) the proposed name and the proposed boundaries of each constituency; and
- (e) the number of members proposed to be elected by the electors of each Maori constituency; and
- (f) the number of members proposed to be elected by the electors of each general constituency.

Compare: 2001 No 1 (L) s 5

4 Calculation of number of Maori and general constituency members

- (1) The number of members to be elected by the electors of 1 or more Maori constituencies of a regional council (**Maori constituency members**) is to be determined in accordance with the following formula:

$$nmm = \frac{mepr}{mepr + gepr} \times nm$$

where—

nmm is the number of Maori constituency members

mepr is the Maori electoral population of the region

gepr is the general electoral population of the region

nm is the proposed number of members of the regional council

- (2) If the number of the Maori constituency members calculated under subclause (1) includes a fraction, the fraction must be disregarded unless it exceeds a half. If the fraction exceeds a half, the number of Maori constituency members must be the next whole number above the number that includes the fraction.
- (3) The number of members to be elected by the electors of 1 or more general constituencies is to be determined by subtracting

Schedule 1A—*continued*

from the proposed number of members of the regional council the number of Maori constituency members, as calculated under subclauses (1) and (2).

- (4) Despite Part 1A and the other provisions of this schedule, if the number of Maori constituency members, as determined in accordance with the method of calculation in this clause, is zero (because the number of Maori constituency members as so determined is a fraction of the whole number 1 that does not exceed one half),—
- (a) the region must not be divided into 1 or more Maori constituencies and 1 or more general constituencies:
 - (b) the provisions of clauses 3, 5, and 6 of this schedule must not be applied for the purposes of any determination under section 19I or section 19R.

Compare: 2001 No 1 (L) s 6

5 Relationship with other provisions

- (1) In exercising its powers and duties under sections 19H to 19U, and sections 19W to 19Y, a territorial authority or regional council or, as the case may require, the Commission must ensure that any proposal, revised proposal, or determination made under any of those sections is,—
- (a) in the case of a territorial authority, consistent with the calculations required by clause 2; and
 - (b) in the case of a regional council, consistent with the result of the calculations required by clause 4.
- (2) If it is proposed to alter the proposed number of members of a territorial authority or regional council at any time after that number is first determined in accordance with clause 1 or clause 3, the territorial authority or regional council or, as the case may require, the Commission must again make, in accordance with the method of calculation specified in clause 2 or the method of calculation specified in clause 4, as the case may require, the determinations required by clause 1 or clause 3.
- (3) Subclause (2) does not limit subclause (1).

Compare: 2001 No 1 (L) s 7

Schedule 1A—*continued***6 Supplementary provisions regarding wards, constituencies, and boundaries**

In determining the number of wards and the boundaries of Maori wards, and the number of constituencies and the boundaries of Maori constituencies, a territorial authority or regional council or, as the case may require, the Commission must, in addition to satisfying the requirements of section 19T or section 19U,—

- (a) ensure, to the extent that is reasonably practicable and is consistent with the requirements of paragraph (b), that—
 - (i) the ratio of members to Maori electoral population in each Maori ward produces a variance of no more than plus or minus 10% (if 2 or more Maori wards for the district are proposed); and
 - (ii) the ratio of members to Maori electoral population in each Maori constituency produces a variance of no more than plus or minus 10% (if 2 or more Maori constituencies for the region are proposed):
- (b) have regard to—
 - (i) the boundaries of any existing Maori electoral district; and
 - (ii) communities of interest and tribal affiliations.

7 Population figures

- (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 certificate—
 - (a) specifying the Maori electoral population for the district or region; and
 - (b) the general electoral population of the district or region.
- (2) The numbers included in the certificate must be derived from information contained in the most recent report of the Government Statistician to the Surveyor-General and to the other

Schedule 1A—*continued*

members of the Representation Commission made under section 35(6) of the Electoral Act 1993.

- (3) A certificate issued under subclause (1) is conclusive evidence of the information contained in that certificate.

Compare: 2001 No 1 (L) s 9

8 This schedule to be read with Local Government Act 1974 or Local Government Act 2002 and other provisions of this Act

- (1) This schedule is to be read in conjunction with the provisions of the Local Government Act 1974 or the Local Government Act 2002 and the other provisions of this Act, and the provisions of the Local Government Act 1974 or the Local Government Act 2002 and the other provisions of this Act and the provisions of any regulations made under either the Local Government Act 1974 or the Local Government Act 2002 or this Act apply accordingly and with any necessary modifications.

- (2) However, if there is any inconsistency between the provisions of this schedule and any provisions of the Local Government Act 1974 or the Local Government Act 2002 or of this Act or of any regulations made under the Local Government Act 1974 or the Local Government Act 2002 or this Act, this schedule prevails.

Compare: 2001 No 1 (L) s 4

Schedule 2
Consequential amendments

s 52

1

Amendments to Acts

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

Repeal the definition of **constituency** in section 3 and substitute:
“**constituency** has the same meaning as in section 5(1) of the Local Electoral Act 2001”

1—*continued*

Insert in the heading of section 4 after the words “Local Government Act 1974”, the words “, Local Government Act 2002,”.

Insert in section 4(1), after the words “Local Government Act 1974”, the words “or the Local Government Act 2002,”.

Omit from section 4 the word “either” wherever it appears and substitute in each case the word “any”.

Omit from section 5 the words “section 101H(2) of the Local Government Act 1974” and substitute the words “section 19I of the Local Electoral Act 2001”.

Omit from section 7(1) the words “sections 101H to 101M of the Local Government Act 1974” and substitute the words “sections 19I to 19Y of the Local Electoral Act 2001”.

Omit from section 7(2) the words “section 101H(2) of the Local Government Act 1974” and substitute the words “section 19I of the Local Electoral Act 2001”.

Omit from section 8 the words “sections 101L(1) of the Local Government Act 1974” and substitute the words “section 19U of the Local Electoral Act 2001”.

Electoral Act 1993(1993 No 87)

Repeal section 113(1) and substitute:

“(1) Subject to this section, if an electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) wishes to obtain specified information for the purposes of any election, by-election, or poll that is required by or under any Act, the electoral official is entitled to obtain from the Chief Registrar a computer-compiled list or electronic storage medium containing that information.”

Omit from section 113(6) the words “electoral officer” wherever they occur and substitute in each case the words “electoral official”.

Omit from section 113(9) the words “acting on behalf of that local authority”.

Omit from section 113(9A) the words “(as defined in section 2 of the Local Government Act 1974)” and substitute the words “(as defined in section 5 of the Local Electoral Act 2001)”.

1—*continued*

Electricity Act 1992(1992 No 122)

Repeal the definition of **local authority** in section 2(1) and substitute:
“**local authority** means a territorial authority within the meaning of the Local Government Act 2002.”

Repeal section 33(2)(a)(iv) and substitute:

“(iv) the Local Government Act 1974 or the Local Government Act 2002; or.”

Greytown District Trust Lands Act 1979 (1979 No 4 (L))

Insert, after section 4:

“4A Qualifications of members

Subject to section 8 of this Act, every person who is a parliamentary elector in respect of any electorate (whether within or outside the Trust district) is qualified for election or appointment as a member of the Trust Board.”

Repeal section 5 and substitute:

“5 Election of members

- “(1) An election of 3 members must be held on the second Saturday in October in the year 2004.
- “(2) After that date, an election of 3 members must be held on the day appointed by the Local Electoral Act 2001 for the holding of successive triennial general elections of members of local authorities.
- “(3) At every election held under this Act, the electoral officer of the South Wairarapa District Council is the electoral officer of the Trust Board.
- “(4) The electoral roll for the South Wairarapa District is the roll of electors for elections under this Act.
- “(5) It is the duty of the electoral officer for the South Wairarapa District Council to indicate on the electoral roll for the South Wairarapa District, by appropriate words, abbreviations, or marks, the names of the persons entitled to vote at elections of members of the Trust Board.
- “(6) Every election under this Act must be conducted within the district by the electoral officer of the South Wairarapa District Council on behalf of the Trust Board. After counting the votes

1—*continued*

recorded in the district for the candidates, the electoral officer of the South Wairarapa District Council must, as soon as practicable, declare the result of the election.

“(7) Subject to the provisions of this Act, the provisions of the Local Electoral Act 2001 and of any regulations made under that Act apply in respect of every election held under this Act.”

Masterton Trust Lands Act 1966 (1966 No 27 (L))

[Repealed]

The item relating to the Masterton Trust Lands Act 1966 was repealed, as from 6 May 2003, by section 38(f) Masterton Trust Lands Act 2003 (2003 No 1(L)). See sections 39 and 40 of that Act as to the savings provisions.

New Zealand Public Health and Disability Act 2000 (2000 No 91)

Omit from clause 14 of Schedule 2 the words “section 108 of the Local Electoral Act 2001” and substitute the words “section 115 of the Local Electoral Act 2001”.

2

Amendments to Regulations

Local Electoral Regulations 2001 (SR 2001/145)

Omit from the definition of **Single Transferable Voting electoral system** in regulation 4(1) the words “Meek’s method of counting votes” and substitute the words “the New Zealand method of counting Single Transferable Votes”.

Omit from regulation 5A(2) the words “Meek’s method of counting votes” and substitute the words “the New Zealand method of counting Single Transferable Votes”.

Legislative history

17 December 2002

Divided from Local Government Bill (Bill 191-2),
third reading
