

Local Electoral (Māori Representation) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to require all territorial authorities and regional councils to establish Māori wards and constituencies to provide for Māori representation. This will be achieved by amendments to the Local Electoral Act 2001.

The requirement to establish Māori seats arises from the Treaty of Waitangi. The process for establishing these will be population based. The number of Māori seats to be established in any territory or region will be in proportion to the general Māori population of the relevant territory or region.

The Bay of Plenty Regional Council (Māori Constituency Empowering) Act 2001 will be repealed and replaced by the Bill, which will have general application throughout the country. The formula used in that Act is altered under the Bill to allow the number of Māori seats to be calculated from total population data as opposed to electorate population data. This change is made because 40% of the Māori population is under 18 years and is therefore excluded under the current formula.

Consistent with the policy of providing better representation for Māori in local government, the Bill also strengthens Māori represen-

tation on the Local Government Commission. This will be achieved by an amendment to the Local Government Act 2002.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill will come into force on the day after the date on which it receives the Royal assent.

Part 1 Preliminary provisions

Clause 3 sets out the purposes of the Bill, which are—

- to provide for the establishment of Māori wards by territorial authorities and of Māori constituencies by regional councils; and
- to strengthen Māori representation on the Local Government Commission.

Clause 4 provides that the Act is to be read in conjunction with the Local Government Act 1974 and the Local Government Act 2002.

Part 2 Establishment of Māori wards and constituencies

Clause 5 states that this Part amends the Local Electoral Act 2001.

Clause 6 amends section 5 by repealing the definitions of **Māori constituency** and **Māori ward** and substituting new definitions as a consequence of the amendments made by *clause 9*.

Clause 7 amends section 19H as a consequence of the amendments made by *clause 9*.

Clause 8 amends section 19I as a consequence of the amendments made by *clause 9*.

Clause 9 repeals sections 19Z to 19ZH and substitutes *new sections 19Z to 19ZD*, which provide for the establishment of Māori wards by territorial authorities and of Māori constituencies by regional councils.

Clause 10 amends section 19ZI as a consequence of the amendments made by *clause 9*.

Clause 11 repeals sections 24A to 24F and substitutes *new sections 24A to 24D*, which provide for the electoral rights of electors in Māori wards and constituencies.

Clause 12 amends the regulation making powers in section 139(1)(la) as a consequence of the amendments made by *clause 9*.

Clause 13(1) repeals Schedule 1A.

Clause 13(2) repeals the Bay of Plenty Regional Council (Māori Constituency Empowering) Act 2001.

Part 3

Māori representation on Local Government Commission

Clause 14 states that this Part amends the Local Government Act 2002.

Clause 15 amends section 33(2)(b) to provide that 1 member of the Local Government Commission is to be appointed with the agreement of the Minister of Māori Affairs.

Te Ururoa Flavell

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Local Electoral (Māori Representation) Amendment Act **2010**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

- 3 Purpose**
The purposes of this Act are— 10

- (a) to provide for the establishment of Māori wards by territorial authorities and of Māori constituencies by regional councils:
- (b) to strengthen Māori representation on the Local Government Commission. 5

4 Act to be read with Local Government Act 1974 and Local Government Act 2002

- (1) This Act is to be read in conjunction with the Local Government Act 1974 and the Local Government Act 2002, and those Acts and any Regulations made under either of those Acts apply accordingly and with any necessary modifications. 10
- (2) However, if there is any inconsistency between the provisions of this Act and any provisions in either of the Acts referred to in **subsection (1)** or any Regulations made under either of those Acts, this Act prevails. 15

**Part 2
Establishment of Māori wards and constituencies**

- 5 Principal Act amended**
This Part amends the Local Electoral Act 2001. 20

- 6 Interpretation**
Section 5 is amended by repealing the definitions of **Māori constituency** and **Māori ward** and substituting the following definitions in their appropriate alphabetical order:
“**Māori constituency** means a Māori constituency created in accordance with **section 19Z** 25
“**Māori ward** means a Māori ward created in accordance with **section 19Z**”.

- 7 Review of representation arrangements for elections of territorial authorities** 30
Section 19H is amended by repealing subsection (3) and substituting the following subsection:
“(3) This section must be read in conjunction with **section 19Z**.”

8 Review of representation arrangements for elections of regional councils

Section 19I is amended by repealing subsection (3) and substituting the following subsection:

“(3) This section must be read in conjunction with **section 19Z.**” 5

9 Sections 19Z to 19ZD substituted

Sections 19Z to 19ZH are repealed and the following sections substituted:

“19Z Territorial authority or regional council must establish Māori wards or Māori constituencies

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“(1) All territorial authorities must establish 1 or more Māori wards for electoral purposes within the district.

“(2) All regional councils must establish 1 or more Māori constituencies for electoral purposes within the region.

“(3) A territorial authority must make a determination under **section 19H** in accordance with this subpart. 15

“(4) A regional council must make a determination under **section 19I** in accordance with this subpart.

“(5) The determinations required by **subsections (3) and (4)** must be made,— 20

“(a) on the first occasion, in 2012, to take effect for the local elections due to take place in 2013:

“(b) subsequently, at the times required by section 19H(2)(b) or 19I(2)(b) as if the determinations had been determinations made under those provisions. 25

“19ZA Calculation of number of Māori ward or constituency members and general ward or constituency members

“(1) The number of members to be elected by the electors of 1 or more Māori wards of a territorial authority, or the electors of 1 or more Māori constituencies of a regional council, is to be determined in accordance with the following formula: 30

$$nmm = \frac{mpd/r \times nm}{tpd/r}$$

where—

nmm is the number of Māori ward or constituency members

mpd/r is the total Māori population of the district or region by descent

tpd/r is the total population of the district or region

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

“(2) If the number of the Māori ward or constituency members calculated under **subsection (1)** includes a fraction, the fraction must be disregarded unless it exceeds a half. If the fraction exceeds a half, the number of Māori ward or constituency members must be the next whole number above the number that includes the fraction. 5

“(3) The number of members to be elected by the electors of general wards or constituencies is to be determined by subtracting from the proposed number of members, of a territorial authority (other than the mayor) or regional council, the number of Māori ward or constituency members as calculated under **subsections (1) and (2)**. 10

“**19ZB Relationship with other provisions**

“(1) In exercising its powers and duties under sections 19A to 19Y a territorial authority or regional council or, as the case may require, the Local Government Commission must ensure that any proposal, revised proposal, or determination made under any of those sections is consistent with the result of the calculations required by **section 19ZA**. 15

“(2) If it is proposed to alter the number of members of a territorial authority or regional council under section 19H or 19I, at any time after the number of Māori ward or constituency members is first determined in accordance with **section 19ZA**, a territorial authority or regional council or, as the case may require, the Local Government Commission must again determine the number of Māori members and number of general members in accordance with the method of calculation specified in **section 19ZA**. 20 25

“(3) **Subsection (2)** does not limit **subsection (1)**.

“19ZC Supplementary provisions regarding wards or constituencies and boundaries

In determining the number of wards or constituencies and boundaries of Māori wards or constituencies, a territorial authority or regional council and, if appropriate, the Local Government Commission must, in addition to satisfying the requirements in section 19T or 19U, have regard to,—

- “(a) the need for the ratio of members to population in each Māori ward or constituency to be similar (if more than 1 Māori ward or constituency for the territorial authority or region is proposed); and
- “(b) the boundaries of any existing Māori electoral district; and
- “(c) communities of interest and tribal affiliations.

“19ZD Population figures

“(1) The Government Statistician must, at the request of a territorial authority or regional council or, if appropriate, the Local Government Commission, supply the territorial authority or regional council or the Commission with a certificate,—

- “(a) specifying the Māori population of the district or region by descent; and
- “(b) specifying the total 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 members of the Representation Commission made under section 35(6) of the Electoral Act 1993.

“(3) A certificate issued under **subsection (1)** is conclusive evidence of the information contained in that certificate.”

10 Guidelines in relation to review of representations

Section 19ZI(1) is amended by omitting “Schedule 1A” and substituting “**section 19Z**”.

11 Sections 24A to 24D substituted

Sections 24A to 24F are repealed and the following sections substituted:

“24A Electors of Māori wards or constituencies

- “(1) The electors of any Māori ward or constituency created in accordance with **section 19Z** are, in the case of any triennial general election,—
- “(a) those residential electors of the district or region entitled to vote at the election of the territorial authority or regional council who—
 - “(i) are registered as a parliamentary elector at an address within the ward or constituency; and
 - “(ii) are registered as an elector of a Māori electoral district; and
 - “(b) those ratepayer electors of the district or region entitled to vote at the election of the territorial authority or regional council—
 - “(i) whose entitlement as an elector arises in respect of property in the ward or constituency; and
 - “(ii) who are registered as an elector of a Māori electoral district.
- “(2) The electors of any Māori ward or constituency created in accordance with **section 19Z** are, 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,—
- “(a) those residential electors of the district or region who, on the day before polling day at the election,—
 - “(i) are registered as a parliamentary elector at an address within the ward or constituency; and
 - “(ii) are registered as an elector of a Māori electoral district; and
 - “(b) those persons who, on the day before polling day at the election, are ratepayer electors of the region—
 - “(i) whose entitlement as electors arises in respect of property in the ward or constituency; and
 - “(ii) who are registered as an elector of a Māori electoral district.

“24B Voting rights at triennial election of territorial authority or regional council

“(1) A person who, under **section 24A**, is an elector of a Māori ward of a territorial authority is, at a triennial general election,—

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“(a) entitled to vote—

“(i) at the election of the mayor; and

“(ii) at the election of the member or members (if any) to be elected to represent the whole of the district; and

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“(iii) at the election of the member or members of the Māori ward; and

“(iv) at the election of the member or members of the appropriate community board (if any) situated within or partly within the Māori ward.

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“(2) A person who, under **section 24A**, is an elector of a Māori constituency of a regional council is, at a triennial general election, entitled to vote at the election of the member or members of the Māori constituency.

“(3) A person who, under **section 24A**, is an elector of a Māori ward of a territorial authority or a Māori constituency of a regional council, is not entitled to vote at the election of the member or members of any other ward of the territorial authority or constituency of the regional council.

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“(4) No other person is entitled to vote at the election of the member or members of that Māori ward of a territorial authority or a Māori constituency of a regional council at a triennial general election.

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“24C Voting rights at election to fill extraordinary vacancy in respect of Māori ward or Māori constituency

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

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“(2) No other person is entitled to vote at any election to fill an extraordinary vacancy in that Māori ward or constituency.

“24D Supply of information by Chief Registrar of Electors to territorial authorities and regional councils

- “(1) A person nominated by, or the principal administrative officer of, any territorial authority or regional council may request the Chief Registrar of Electors to inform the requester if any person who is qualified as a ratepayer elector of the district or region is registered as an elector of a Māori electoral district. 5
- “(2) If the Chief Registrar of Electors receives a request under **subsection (1)**, the Chief Registrar must provide the information requested, if the requester has supplied adequate identifying information.” 10

12 Regulations

Section 139(1)(la) is amended by omitting “and Schedule 1A”.

13 Consequential amendments

- (1) Schedule 1A is repealed. 15
- (2) The Bay of Plenty Regional Council (Māori Constituency Empowering) Act 2001 is repealed.

Part 3

Māori representation on Local Government Commission

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14 Principal Act amended

This Part amends the Local Government Act 2002.

15 Membership of Commission

Section 33 is amended by repealing subsection (2) and substituting the following subsection: 25

- “(2) One member of the Commission—
- “(a) must have a knowledge of tikanga Māori; and
- “(b) is to be appointed with the agreement of the Minister of Māori Affairs.”