

## MUNICIPAL CORPORATIONS AMENDMENT BILL

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### EXPLANATORY NOTE

*Clause 1* relates to the Short Title.

*Clause 2* provides by amending section 23 of the Municipal Corporations Act 1954 that a special order made by a Council creating, altering, or abolishing wards shall be only provisional until confirmed by a Magistrate.

*Clause 3* sets forth in a new section, section 23A, the procedure to be followed to obtain the Magisterial confirmation and confers on an elector a right of objection to be exercised within a limited time. Provision is made for public notification of the provisional special order and the calling for objections. If no objections are lodged the Magistrate must confirm the order. If objections are lodged the Magistrate must order a public hearing and determine matters by confirming or disallowing or conditionally confirming the provisional special order. The Magistrate is to have regard of existing ward boundaries and communication facilities, any community of interest of the inhabitants, and the topographical features and developmental history of the borough. The amendment is to apply to any special order made since the last council general election or to any future special order made by the Council concerning the creation, abolition, or alteration of wards.

*Hon. Mr Walker*

## MUNICIPAL CORPORATIONS AMENDMENT

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### ANALYSIS

Title	
1. Short Title	3. Procedure for obtaining Magisterial confirmation of provisional special orders creating, altering, or abolishing wards
2. Special orders creating, altering, or abolishing wards provisional only until confirmed by a Magistrate	

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### A BILL INTITULED

#### **An Act to amend the Municipal Corporations Act 1954**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,  
5 as follows:

1. **Short Title**—This Act may be cited as the Municipal Corporations Amendment Act 1973, and shall be read together with and deemed part of the Municipal Corporations Act 1954 (hereinafter referred to as the principal Act).
- 10 2. **Special orders creating, altering, or abolishing wards provisional only until confirmed by a Magistrate**—Section 23 of the principal Act is hereby amended by repealing subsection (1A) and substituting the following subsection:
- 15 “(1A) Every such special order made by a Council creating or abolishing wards in a borough or altering the boundaries of any ward shall be provisional only and referred to as a provisional special order and shall neither be gazetted

nor come into force until confirmed under section 23A of this Act by the Magistrate, whereupon such an order shall be deemed a special order duly passed for any such purpose of creating or abolishing wards in a borough or altering their boundaries.”

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**3. Procedure for obtaining Magisterial confirmation of provisional special orders creating, altering, or abolishing wards**—The principal Act is hereby further amended by inserting after section 23 the following section:

“23A. (1) A copy of every such provisional special order made by any Council creating or abolishing wards in a borough or altering their boundaries together with a certificate under the hand of the Mayor that the provisional special order has been duly passed as a provisional special order shall be sent forthwith to the Senior Magistrate of the Magistrate’s Court held in the borough or if there is no such Magistrate’s Court then to the Senior Magistrate of the Magistrate’s Court which in the opinion of the Council expressed in the order is most conveniently situated for the holding of the confirmation proceedings.

“(2) At the same time at least 1 copy of such provisional special order certified to as aforesaid shall be made and kept available for inspection by members of the public at the public office of the Council during the usual office hours for a period of 28 days from the making of such provisional special order.

“(3) During the period of 28 days from the making of any such provisional special order public notification thereof shall be made at least once a week and shall contain notification of any elector’s right within 1 month from the making of the provisional special order to object to any proposal contained in such provisional special order by lodging written objection at the office of the Magistrate’s Court concerned.

“(4) Upon the closing of the period for the lodging of objections the Senior Magistrate or any other Magistrate appointed by him in writing to hear such objections shall upon receiving the same appoint a date, time, and place for the public hearing of any such objections and order the objectors to be served personally with such notice of hearing and also that public notice of the hearing be given at least twice in good time before the hearing. The Magistrate may adjourn the hearing from time to time as he thinks fit and generally regulate the conduct of the objection proceedings

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in accordance with a due and proper regard for the principles of the fair and proper conduct of judicial proceedings not inconsistent with the provisions of this section.

5 “(5) In considering any such objection and in making any order in accordance with subsection (7) of this section the Magistrate shall give due consideration to the existing ward boundaries (if any), the community of interest of the inhabitants of and the facilities of communications within  
10 the topographical features, and the history of the development of the borough.

“(6) The Magistrate when considering objections may call upon the Chief Surveyor of the land district in which the borough is situate to give a certificate under either sub-  
15 section (2) or subsection (3) of section 24 of this Act and if the Chief Surveyor is unable to do so the Magistrate may call upon him to give evidence and treat the same as an objection.

20 “(7) At the conclusion of the consideration or hearing of objections the Magistrate may—

“(a) Confirm the provisional special order in its entirety;  
or

“(b) In the case of a provisional special order abolishing wards, disallow it in its entirety; or

25 “(c) Confirm the provisional special order but subject to the incorporation therein of such conditions as to the number of wards to be created, the alteration of the boundaries and numbers of any proposed ward or wards, the alteration of the boundaries of  
30 any existing ward or wards and the number of councillors to be elected by any new or redefined ward or wards as he shall think fit as being justified by any objection. Any such conditions shall be deemed to be part of the special order as confirmed and it shall be read subject thereto.

35 “(8) The Magistrate in confirming, disallowing, or conditionally confirming a provisional special order shall give written reasons for his decision.

40 “(9) If there are no objections duly lodged by electors then the Magistrate shall declare the provisional special order confirmed.

“(10) The confirmation of any provisional special order or its disallowance shall be deemed finally to dispose of any elector’s right of objection and the Magistrate’s declaration or decision shall be transmitted to the Council. The transmission to the Council of the Magistrate’s declaration or decision confirming the provisional special order shall be deemed to complete the due passing or making of the special order but if the special order has been disallowed it shall thereby be deemed a nullity. 5

“(11) At the conclusion of the objection proceedings by the transmission of his declaration or decision to the Council in accordance with the provisions of subsection (10) of this section of the Act the Magistrate shall also determine the total costs of the entire proceedings which would otherwise have been borne by the Department of Justice and upon his certifying the amount thereof it shall become payable by the Council to the Department of Justice from the proceeds of the general rate made and levied by the Council under this Act and until paid such amount shall be a charge upon the proceeds of such general rate and deductible by the Treasury from any moneys receivable by the Council whether by way of grant from the Government, or from appropriation by Parliament, or pursuant to any Act, or otherwise howsoever. 10 15 20

“(12) Every such special order so passed or made in accordance with this section of the Act for any of the purposes specified in subsection (1) of section 25 of this Act shall come into full force only at the triennial general election of the Council to be held next after the expiry of a period of not less than 6 months after the gazetting of the special order as provided for by section 24 of this Act except in so far and to such extent as may be necessary for providing for that election. 25 30

“(13) No special order made or passed by any Council for the purpose of creating or abolishing wards in a borough or altering the boundaries of any such ward shall come into force at any triennial general election of such Council to be held after the date of the enactment of this section unless and until the objection procedure provided for in this section of the Act has been duly complied with by the Council and any special order already passed but not in force at any triennial election of the Council held prior to the enactment of this section shall notwithstanding it has been gazetted be 35 40

deemed to be only a provisional special order requiring confirmation in accordance with the provision of this section of the Act. Proceedings in accordance with the provisions of this section of the Act shall in such case be taken within 3 months  
5 of the enactment of such section by the sending of a *gazette* or certified copy as prescribed of the order to the Magistrate and the making and keeping available of a *gazette* or similarly certified copy of the order for public inspection as provided for in this section of the Act in respect of certified  
10 copies of provisional special orders and the giving of public notice and otherwise conforming to the objection procedure prescribed by such section upon the making or passing of a provisional special order by a Council.

“(14) Notwithstanding any provision to the contrary in  
15 section 77 of this Act the Council when making a special order to which this section applies shall only pass a resolution a provided in paragraph (a) of section 77 of this Act (such resolution when passed being a provisional special order under this section) and shall not proceed to have such resolution (or  
20 provisional special order) confirmed except by a Magistrate in accordance with the objection procedure laid down under this section.”