**Version**
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# Resource Management Act 1991

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**Note**

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry for the Environment.**

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**An Act to restate and reform the law relating to the use of land, air, and water**

### 1 Short Title and commencement

(1) This Act may be cited as the Resource Management Act 1991.

(2) Except as provided in subsection (3), this Act shall come into force on 1 October 1991.

(3) *[Repealed]*

Section 1(3): repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## Part 1
## Interpretation and application

### 2 Interpretation

(1) In this Act, unless the context otherwise requires,—

**abatement notice** means a notice served under section 322

**access strip** means a strip of land created by the registration of an easement in accordance with section 237B for the purpose of allowing public access to or along any river, or lake, or the coast, or to any esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown (but excluding all land held for a public work except land held, administered, or managed under the Conservation Act 1987 and the Acts named in Schedule 1 of that Act)

**accommodated activity** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**accredited** means to hold a qualification approved and notified under section 39A

**adverse effects assessment** means an assessment carried out—

(a) by the Minister of Conservation under Part 1 of Schedule 12; or

(b) by a regional council under section 17B(1)(a), in accordance with Part 2 of Schedule 12

**adverse effects report** means a written report prepared—

(a) by the Minister of Conservation in accordance with Part 1 of Schedule 12; or

(b) by a regional council under section 17B(1)(b), in accordance with Part 2 of Schedule 12

**agent** or **agent of the ship**, in relation to a ship, means—

(a) any agent in New Zealand of the owner of the ship; or

(b) any agent of the ship

**agreement** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**aircraft** means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth

**airport** means any defined area of land or water intended or designed to be used, whether wholly or partly, for the landing, departure, movement, or servicing of aircraft

**allotment** has the meaning set out in section 218

**amenity values** means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

**applicant**,—

(a) in sections 37A, 40, 41B, 41C, and 42A means—

(i) for the purposes of a review of consent conditions, the consent holder; or

(ii) for any matter described in section 39(1) except for section 39(1)(c), the person who initiates the matter:

(b) in section 96, means the person who—

(i) initiates a matter described in section 39(1)(b) or (d); or

(ii) holds a resource consent referred to in section 39(1)(c); or

(iii) initiates a requirement for a designation:

(c) in Part 6AA, has the meaning given in section 141

**aquaculture activities**—

(a) means any activity described in section 12 done for the purpose of the breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic

life, or seaweed for harvest if the breeding, hatching, cultivating, rearing, or ongrowing involves the occupation of a coastal marine area; and

(b) includes the taking of harvestable spat if the taking involves the occupation of a coastal marine area; but

(c) does not include an activity specified in paragraph (a) if the fish, aquatic life, or seaweed—

(i) are not in the exclusive and continuous possession or control of the person undertaking the activity; or

(ii) cannot be distinguished or kept separate from naturally occurring fish, aquatic life, or seaweed; and

(d) does not include an activity specified in paragraph (a) or (b) if the activity is carried out solely for the purpose of monitoring the environment

**aquatic life** has the same meaning as in section 2(1) of the Fisheries Act 1996

**bed** means,—

(a) in relation to any river—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks:

(ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and

(b) in relation to any lake, except a lake controlled by artificial means,—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin:

(ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and

(c) in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and

(d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea

**benefits and costs** includes benefits and costs of any kind, whether monetary or non-monetary

**best practicable option**, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

(a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and

(b) the financial implications, and the effects on the environment, of that option when compared with other options; and

(c) the current state of technical knowledge and the likelihood that the option can be successfully applied

**biological diversity** means the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems

**boundary activity** and **boundary rule** have the meanings given in section 87AAB

**certificate of compliance** means a certificate granted by a consent authority or the Environmental Protection Authority under section 139

**change** has the meaning given in section 43AA

**Chief Freshwater Commissioner** means the Chief Freshwater Commissioner appointed under clause 65(3) of Schedule 1

**climate change** means a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods

**coastal marine area** means the foreshore, seabed, and coastal water, and the air space above the water—

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

**coastal permit** has the meaning set out in section 87(c)

**coastal water** means seawater within the outer limits of the territorial sea and includes—

(a) seawater with a substantial fresh water component; and

(b) seawater in estuaries, fiords, inlets, harbours, or embayments

**combined document** means any instrument for which section 80 makes provision

**commercial fishing** has the same meaning as in section 2(1) of the Fisheries Act 1996

**common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**company lease** means a lease or licence or other right of occupation of any building or part of any building on, or to be erected on, any land—

(a) that is granted by a company owning an estate or interest in the land; and

(b) that is held by a person by virtue of being a shareholder in the company,—

and includes a licence within the meaning of section 122 of the Land Transfer Act 2017

**completion certificate** means a certificate issued under section 222

**conditions**, in relation to plans and resource consents, includes terms, standards, restrictions, and prohibitions

**consent authority** means a regional council, a territorial authority, or a local authority that is both a regional council and a territorial authority, whose permission is required to carry out an activity for which a resource consent is required under this Act

**consent notice** means a notice issued under section 221

**constable** has the meaning given in section 4 of the Policing Act 2008

**contaminant** includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—

(a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or

(b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged

**contaminated land** means land that has a hazardous substance in or on it that—

(a) has significant adverse effects on the environment; or

(b) is reasonably likely to have significant adverse effects on the environment

**contravene** includes fail to comply with

**controlled activity** means an activity described in section 87A(2)

**cross lease** means a lease of any building or part of any building on, or to be erected on, any land—

(a) that is granted by any owner of the land; and

(b) that is held by a person who has an estate or interest in an undivided share in the land

**Crown organisation** has the same meaning as in section 4 of the Crown Organisations (Criminal Liability) Act 2002

**customary marine title area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**customary marine title group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**customary marine title order** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**designation** has the meaning set out in section 166

**determination** has the same meaning as in section 2(1) of the Fisheries Act 1996

**development capacity** has the meaning given in section 30(5)

**Director of Maritime New Zealand** or **Director** means the person for the time being holding the office of Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994

**discharge** includes emit, deposit, and allow to escape

**discharge permit** has the meaning set out in section 87(e)

**discretionary activity** means an activity described in section 87A(4)

**district**, in relation to a territorial authority,—

(a) means the district of the territorial authority as defined in accordance with the Local Government Act 2002 but, except as provided in paragraph (b), does not include any area in the coastal marine area:

(b) includes, for the purposes of section 89, any area in the coastal marine area

**district plan** has the meaning given in section 43AA

**district rule** has the meaning given in section 43AAB

**dumping** means,—

(a) in relation to waste or other matter, its deliberate disposal; and

(b) in relation to a ship, an aircraft, or an offshore installation, its deliberate disposal or abandonment;—

but does not include the disposal of waste or other matter incidental to, or derived from, the normal operations of a ship, aircraft, or offshore installation, if those operations are prescribed as the normal operations of a ship, aircraft, or offshore installation, or if the purpose of those operations does not include the disposal, or the treatment or transportation for disposal, of that waste or other matter; and **to dump** and **dumped** have corresponding meanings

**dwellinghouse** means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited

**employee** includes,—

(a) in relation to a Crown organisation, the chief executive or principal officer (however described) of the organisation; and

(b) in relation to the New Zealand Defence Force, a member of the Armed Forces (as defined in section 2(1) of the Defence Act 1990)

**enforcement officer**,—

(a) in sections 327, 328, and 333, means an enforcement officer authorised under section 38; and

(b) in the rest of this Act, means an enforcement officer authorised under section 38 or 343I

**enforcement order** means an order made under section 319 for any of the purposes set out in section 314; and includes an interim enforcement order made under section 320

**environment** includes—

(a) ecosystems and their constituent parts, including people and communities; and

(b) all natural and physical resources; and

(c) amenity values; and

(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

**Environment Court** and **court** means the Environment Court referred to in section 247

**Environmental Protection Authority** or **EPA** means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

**equivalent zone** means the zone in a district plan that is the nearest equivalent zone to the zone described in standard 8 (zone framework standard) of the national planning standards that would apply if those standards had been implemented

**esplanade reserve** means a reserve within the meaning of the Reserves Act 1977—

(a) which is either—

(i) a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or

(ii) a reserve vested in the Crown or a regional council under section 237D; and

(b) which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229

**esplanade strip** means a strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229

**excessive noise** has the meaning set out in section 326

**existing use certificate** means a certificate issued under section 139A

**exploration** has the same meaning as in the Crown Minerals Act 1991

**fast-track application** has the meaning given in section 87AAC

**fish** has the same meaning as in section 2(1) of the Fisheries Act 1996

**fisheries resources** has the same meaning as in section 2(1) of the Fisheries Act 1996

**fishing** has the same meaning as in section 2(1) of the Fisheries Act 1996

**foreshore** means any land covered and uncovered by the flow and ebb of the tide at mean spring tides and, in relation to any such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area

**freshwater** or **fresh water** means all water except coastal water and geothermal water

**freshwater commissioner** means a person appointed by the Minister under clause 65 of Schedule 1

**freshwater hearings panel** means a panel convened under clause 38 of Schedule 1

**freshwater planning instrument** has the meaning given to it by section 80A(2) and (8)

**freshwater planning process** means the process set out in subpart 4 of Part 5 (section 80A) and Part 4 of Schedule 1

**geothermal energy** means energy derived or derivable from and produced within the earth by natural heat phenomena; and includes all geothermal water

**geothermal water** means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more; and includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena

**greenhouse gas** has the meaning given to it in section 4(1) of the Climate Change Response Act 2002

**harmful substance** means any substance prescribed by regulations as a harmful substance for the purposes of this definition

**harvestable spat** has the same meaning as in section 2(1) of the Fisheries Act 1996

**hazardous substance** includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance

**heritage order** has the meaning set out in section 187

**heritage protection authority** has the meaning set out in section 187

**historic heritage**—

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

(i) archaeological:

(ii) architectural:

(iii) cultural:

(iv) historic:

(v) scientific:

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with the natural and physical resources

**incineration**, in relation to waste or other matter, means its deliberate combustion for the purpose of its thermal destruction; and **to incinerate** and **incinerated** have corresponding meanings

**industrial or trade premises** means—

(a) any premises used for any industrial or trade purposes; or

(b) any premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or

(c) any other premises from which a contaminant is discharged in connection with any industrial or trade process;—

but does not include any production land

**industrial or trade process** includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material, and any intervening storage of the raw material, partly processed matter, or product

**infrastructure** means—

(a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy:

(b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:

(c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989:

(d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person—

(i) uses them in connection with the generation of electricity for the person's use; and

(ii) does not use them to generate any electricity for supply to any other person:

(e) a water supply distribution system, including a system for irrigation:

(f) a drainage or sewerage system:

(g) structures for transport on land by cycleways, rail, roads, walkways, or any other means:

(h) facilities for the loading or unloading of cargo or passengers transported on land by any means:

(i) an airport as defined in section 2 of the Airport Authorities Act 1966:

(j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990:

(k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988:

(l) anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166

**infringed boundary**, in relation to a boundary activity, has the meaning given in section 87AAB

**intensification planning instrument** or **IPI** has the meaning set out in section 80E(1)

**intensification streamlined planning process** or **ISPP** means the planning process set out in subpart 5A of Part 5 and Part 6 of Schedule 1

**interim enforcement order** means an order made under section 320

**internal waters** has the same meaning as in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

**intrinsic values**, in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including—

(a) their biological and genetic diversity; and

(b) the essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience

**iwi authority** means the authority which represents an iwi and which is recognised by that iwi as having authority to do so

**iwi participation legislation** has the meaning given in section 58L

**joint management agreement** means an agreement that—

(a) is made by a local authority with 1 or more—

(i) public authorities, as defined in paragraph (b) of the definition of public authority:

(ii) iwi authorities or groups that represent hapu; and

(b) provides for the parties to the joint management agreement jointly to perform or exercise any of the local authority's functions, powers, or duties under this Act relating to a natural or physical resource; and

(c) specifies the functions, powers, or duties; and

(d) specifies the natural or physical resource; and

(e) specifies whether the natural or physical resource is in the whole of the region or district or part of the region or district; and

(f) may require the parties to the joint management agreement to perform or exercise a specified function, power, or duty together; and

(g) if paragraph (f) applies, specifies how the parties to the joint management agreement are to make decisions; and

(h) may specify any other terms or conditions relevant to the performance or exercise of the functions, powers, or duties, including but not limited to terms or conditions for liability and funding

**kaitiakitanga** means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship

**lake** means a body of fresh water which is entirely or nearly surrounded by land

**land**—

(a) includes land covered by water and the airspace above land; and

(b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and

(c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river

**land use consent** has the meaning set out in section 87(a)

**large lot residential zone** means a zone listed as a large lot residential zone and described in standard 8 (zone framework standard) of the national planning standards (within the meaning of section 77F), or an equivalent zone

**lawyer** has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

**local authority** means a regional council or territorial authority

**local board** has the same meaning as in section 5(1) of the Local Government Act 2002

**maataitai** means food resources from the sea and **mahinga maataitai** means the areas from which these resources are gathered

**Mana Whakahono a Rohe** means an iwi participation arrangement entered into under subpart 2 of Part 5

**mana whenua** means customary authority exercised by an iwi or hapu in an identified area

**marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**marine incineration facility** has the same meaning as in section 257 of the Maritime Transport Act 1994

**Maritime New Zealand** means the authority continued by section 429 of the Maritime Transport Act 1994

**master** in relation to any ship, has the same meaning as in section 2(1) of the Maritime Transport Act 1994

**medium density residential standards** or **MDRS** means the requirements, conditions, and permissions set out in Schedule 3A

**mineral** has the same meaning as in section 2(1) of the Crown Minerals Act 1991

**mining** has the same meaning as in the Crown Minerals Act 1991

**Minister** means the Minister for the Environment

**Minister of Aquaculture** means the Minister who, under the authority of any warrant or under the authority of the Prime Minister, has overall responsibility for aquaculture

**Minister of Fisheries** has the same meaning as Minister in the Fisheries Act 1996

**mouth**, for the purpose of defining the landward boundary of the coastal marine area, means the mouth of the river either—

(a) as agreed and set between the Minister of Conservation, the regional council, and the appropriate territorial authority in the period between consultation on, and notification of, the proposed regional coastal plan; or

(b) as declared by the Environment Court under section 310 upon application made by the Minister of Conservation, the regional council, or the territorial authority prior to the plan becoming operative,—

and once so agreed and set or declared shall not be changed in accordance with Schedule 1 or otherwise varied, altered, questioned, or reviewed in any way until the next review of the regional coastal plan, unless the Minister of Conservation, the regional council, and the appropriate territorial authority agree

**national environmental standard** means a standard prescribed by regulations made under section 43

**national planning standard** means any of the national planning standards approved under section 58E

**national policy statement** means a statement issued under section 52

**National Policy Statement on Urban Development** or **NPS-UD** means the National Policy Statement on Urban Development 2020—

(a) that was approved by the Governor-General under section 52(2) on 20 July 2020 and that came into effect on 20 August 2020; and

(b) as amended by section 77S(1)

**natural and physical resources** includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures

**natural hazard** means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment

**network utility operator** has the meaning set out in section 166

**new residential zone** means an area proposed to become a relevant residential zone that is not shown in a district plan as a residential zone

**New Zealand coastal policy statement** means a statement issued under section 57

**noise** includes vibration

**non-complying activity** means an activity described in section 87A(5)

**notice of decision** means—

(a) a copy of a decision on—

(i) an application for a resource consent; or

(ii) a requirement for a designation; or

(iii) a provision of a policy statement or plan; or

(b) a notice summarising a decision under paragraph (a)

**occupier** means—

(a) the inhabitant occupier of any property; and

(b) *[Repealed]*

(c) for the purposes of section 16, in relation to any land (including any premises and any coastal marine area), includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land

**occupy** means the activity of occupying any part of the coastal marine area—

(a) where the occupation is reasonably necessary for another activity; and

(b) where it is to the exclusion of all or any class of persons who are not expressly allowed to occupy that part of the coastal marine area by a rule in a regional coastal plan and in any relevant proposed regional coastal plan or by a resource consent; and

(c) for a period of time and in a way that, but for a rule in the regional coastal plan and in any relevant proposed regional coastal plan or the holding of a resource consent under this Act, a lease or licence to occupy that part of the coastal marine area would be necessary to give effect to the exclusion of other persons, whether in a physical or legal sense

**offshore installation** has the same meaning as in section 222(1) of the Maritime Transport Act 1994

**oil transfer site** has the same meaning as in section 281 of the Maritime Transport Act 1994

**on-scene commander** has the same meaning as in section 281 of the Maritime Transport Act 1994

**open coastal water** means coastal water that is remote from estuaries, fiords, inlets, harbours, and embayments

**operative** has the meaning given in section 43AA

**owner**,—

(a) in relation to any land, means the person who is for the time being entitled to the rack rent of the land or who would be so entitled if the land were let to a tenant at a rack rent; and includes—

(i) the owner of the fee simple of the land; and

(ii) any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, while the agreement remains in force; and

(b) in relation to any ship or offshore installation or oil transfer site, has the same meaning as in section 222(2) of the Maritime Transport Act 1994

**permitted activity** means an activity described in section 87A(1)

**person** includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate

**plan** has the meaning given in section 43AA

**policy 3** means policy 3 in clause 2.2 of the NPS-UD, the text of which is set out in Schedule 3B

**policy 4** means policy 4 in clause 2.2 of the NPS-UD, the text of which is set out in Schedule 3B

**policy 5** means policy 5 in clause 2.2 of the NPS-UD, the text of which is set out in Schedule 3B

**policy statement** has the meaning given in section 43AA

**prescribed** means prescribed by regulations made under this Act

**prescribed form** means a form prescribed by regulations made under this Act and containing and having attached such information and documents as those regulations may require

**private road** has the same meaning as in section 315 of the Local Government Act 1974

**private way** has the same meaning as in section 315 of the Local Government Act 1974

**production land**—

(a) means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products):

(b) does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals,—

and **production** has a corresponding meaning

**prohibited activity** means an activity described in section 87A(6)

**proposed plan** has the meaning given in section 43AAC

**proposed policy statement** has the meaning given in section 43AA

**prospecting** has the same meaning as in the Crown Minerals Act 1991

**protected customary right** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**protected customary rights area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**protected customary rights group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**protected customary rights order** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**public authority**,—

(a) in section 33, has the meaning given to it by section 33(2); and

(b) in section 36B and the definition of joint management agreement, means—

(i) a local authority; and

(ii) a statutory body; and

(iii) the Crown

**public boundary** has the meaning given in section 87AAB

**public notice** has the meaning given in section 2AB

**public work** has the same meaning as in the Public Works Act 1981, and includes any existing or proposed public reserve within the meaning of the Reserves Act 1977 and any national park purposes under the National Parks Act 1980

**qualifying matter** means a matter referred to in section 77I or 77O

**raft** means any moored floating platform which is not self-propelled; and includes platforms that provide buoyancy support for the surfaces on which fish or marine vegetation are cultivated or for any cage or other device used to contain or restrain fish or marine vegetation; but does not include booms situated on lakes subject to artificial control which have been installed to ensure the safe operation of electricity generating facilities

**region**, in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002

**regional coastal plan** has the meaning given in section 43AA

**regional council**—

(a) has the same meaning as in section 5 of the Local Government Act 2002; and

(b) includes a unitary authority within the meaning of that Act

**regional plan** has the meaning given in section 43AA

**regional policy statement** has the meaning given in section 43AA

**regional rule** has the meaning given in section 43AAB

**regulations** means regulations made under this Act

**relevant residential zone**—

(a) means all residential zones; but

(b) does not include—

(i) a large lot residential zone:

(ii) an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless

a local authority intends the area to become part of an urban environment:

(iii) an offshore island:

(iv) to avoid doubt, a settlement zone

**renewable energy** means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources

**requiring authority** has the meaning set out in section 166

**reservation** has the same meaning as in section 2(1) of the Fisheries Act 1996

**residential unit**—

(a) means a building or part of a building that is used for a residential activity exclusively by 1 household; and

(b) includes sleeping, cooking, bathing, and toilet facilities

**residential zone** means all residential zones listed and described in standard 8 (zone framework standard) of the national planning standard or an equivalent zone

**resource consent** has the meaning set out in section 87; and includes all conditions to which the consent is subject

**restricted coastal activity** means any discretionary activity or non-complying activity that, in accordance with section 68, is stated by a regional coastal plan to be a restricted coastal activity

**restricted discretionary activity** means an activity described in section 87A(3)

**river** means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)

**RMA permission right** means the right provided for a customary marine title group by sections 66 and 68 of the Marine and Coastal Area (Takutai Moana) Act 2011

**road** has the same meaning as in section 315 of the Local Government Act 1974; and includes a motorway as defined in section 2(1) of the Government Roading Powers Act 1989

**rule** has the meaning given in section 43AA

**seaweed** has the same meaning as in section 2(1) of the Fisheries Act 1996

**serve** means serve in accordance with section 352 or section 353

**settlement zone** means a zone listed as a settlement zone and described in standard 8 (zone framework standard) of the national planning standards (within the meaning of section 77F), or an equivalent zone

**ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994

**soil conservation** means avoiding, remedying, or mitigating soil erosion and maintaining the physical, chemical, and biological qualities of soil

**space**, in relation to the coastal marine area, means any part of the foreshore, seabed, and coastal water, and the airspace above the water

**special tribunal** means a special tribunal appointed under section 202 to hear an application for a water conservation order

**specified territorial authority** means any of the following:

(a) every tier 1 territorial authority:

(b) a tier 2 territorial authority that is required by regulations made under section 80I(1) to prepare and notify an IPI:

(c) a tier 3 territorial authority that is required by regulations made under section 80K(1) to prepare and notify an IPI

**State highway** has the same meaning as in section 2(1) of the Government Roading Powers Act 1989

**structure** means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft

**subdivision consent** has the meaning set out in section 87(b)

**subdivision of land** and **subdivide land** have the meanings set out in section 218

**submission** means a written or electronic submission

**survey plan** has the meaning set out in the following paragraphs, in which **cadastral survey dataset** has the same meaning as in section 4 of the Cadastral Survey Act 2002:

(a) **survey plan** means—

(i) a cadastral survey dataset of subdivision of land, or a building or part of a building, prepared in a form suitable for deposit under the Land Transfer Act 2017; and

(ii) a cadastral survey dataset of a subdivision by or on behalf of a Minister of the Crown of land not subject to the Land Transfer Act 2017:

(b) **survey plan** includes—

(i) a unit plan; and

(ii) a cadastral survey dataset to give effect to the grant of a cross lease or company lease

**tangata whenua**, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area

**taonga raranga** means plants which produce material highly prized for use in weaving

**tauranga waka** means canoe landing sites

**territorial authority** means a territorial authority within the meaning of the Local Government Act 2002

**territorial sea** means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

**tier 1 territorial authority** means any of the following:

(a) Auckland Council:

(b) Christchurch City Council:

(c) Hamilton City Council:

(d) Hutt City Council:

(e) Kapiti Coast District Council:

(f) Porirua City Council:

(g) Selwyn District Council:

(h) Tauranga City Council:

(i) Upper Hutt City Council:

(j) Waikato District Council:

(k) Waimakariri District Council:

(l) Waipa District Council:

(m) Wellington City Council:

(n) Western Bay of Plenty District Council

**tier 2 territorial authority** means any of the following:

(a) Dunedin City Council:

(b) Hastings District Council:

(c) Napier City Council:

(d) Nelson City Council:

(e) New Plymouth District Council:

(f) Palmerston North City Council:

(g) Queenstown–Lakes District Council:

(h) Rotorua District Council:

(i) Tasman District Council:

(j) Whangarei District Council

**tier 3 territorial authority** means a territorial authority that has all or part of an urban environment within its district but is not a tier 1 or tier 2 territorial authority

**tikanga Maori** means Maori customary values and practices

**Treaty of Waitangi (Te Tiriti o Waitangi)** has the same meaning as the word Treaty as defined in section 2 of the Treaty of Waitangi Act 1975

**unit** has the same meaning as in section 5(1) of the Unit Titles Act 2010; and includes a future development unit (also defined in section 5(1) of the Unit Titles Act 2010)

**unit plan** has the same meaning as in section 5(1) of the Unit Titles Act 2010

**unitary authority** has the same meaning as in section 5(1) of the Local Government Act 2002

**use**,—

(a) in sections 9, 10, 10A, 10B, 81(2), 176(1)(b)(i), and 193(a), means—

  (i) alter, demolish, erect, extend, place, reconstruct, remove, or use a structure or part of a structure in, on, under, or over land:

  (ii) drill, excavate, or tunnel land or disturb land in a similar way:

  (iii) damage, destroy, or disturb the habitats of plants or animals in, on, or under land:

  (iv) deposit a substance in, on, or under land:

  (v) any other use of land; and

(b) in sections 9, 10A, 81(2), 176(1)(b)(i), and 193(a), also means to enter onto or pass across the surface of water in a lake or river

**variation** has the meaning given in section 43AA

**waste or other matter** means materials and substances of any kind, form, or description

**water**—

(a) means water in all its physical forms whether flowing or not and whether over or under the ground:

(b) includes fresh water, coastal water, and geothermal water:

(c) does not include water in any form while in any pipe, tank, or cistern

**water body** means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area

**water conservation order** has the meaning set out in section 200

**water permit** has the meaning set out in section 87(d)

**wetland** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions

**working day** means a day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(c) a day in the period commencing on 20 December in any year and ending with 10 January in the following year.

(2) In this Act, unless the context otherwise requires,—

(a) a reference to a Part, section, or schedule, is a reference to a Part, section, or schedule of this Act:

(b) a reference in a section to a subsection is a reference to a subsection of that section:

(c) a reference in a subsection to a paragraph is a reference to a paragraph of that subsection:

(d) a reference in a section to a paragraph is a reference to a paragraph of that section:

(e) a reference in a schedule to a clause is a reference to a clause of that schedule:

(f) a reference in a clause of a schedule to a subclause is a reference to a subclause of that clause:

(g) a reference in a subclause in a schedule to a paragraph is a reference to a paragraph of that subclause:

(h) a reference in a clause in a schedule to a paragraph is a reference to a paragraph of that clause.

Section 2(1) **access rights**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **access strip**: inserted, on 7 July 1993, by section 2(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **accommodated activity**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **accredited**: inserted, on 10 August 2005, by section 4(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 2(1) **adverse effects assessment**: inserted, on 25 November 2004, by section 3(1) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 2(1) **adverse effects report**: inserted, on 25 November 2004, by section 3(1) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 2(1) **agent** or **agent of the ship**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **agreement**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **aircraft**: inserted, on 7 July 1993, by section 2(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **airport**: inserted, on 7 July 1993, by section 2(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **amendment**: repealed, on 1 October 2009, by section 4(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **applicant**: replaced, on 1 October 2009, by section 4(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **aquaculture activities**: replaced, on 1 January 2005, by section 4(2) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **aquaculture activities** paragraph (a): amended, on 1 October 2011, by section 4(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 2(1) **aquaculture activities** paragraph (c): amended, on 1 October 2011, by section 4(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 2(1) **aquaculture activities** paragraph (d): inserted, on 1 October 2011, by section 4(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 2(1) **aquaculture management area**: repealed, on 1 October 2011, by section 4(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 2(1) **aquatic life**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **bed**: replaced, on 7 July 1993, by section 2(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **benefits and costs**: inserted, on 7 July 1993, by section 2(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **biological diversity**: inserted, on 1 August 2003, by section 3(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **board**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **board of inquiry**: repealed, on 1 October 2009, by section 4(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **boundary activity** and **boundary rule**: inserted, on 18 October 2017, by section 124(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **certificate of compliance**: amended, on 1 October 2009, by section 4(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **change**: replaced, on 1 October 2009, by section 4(6) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **Chief Freshwater Commissioner**: inserted, on 1 July 2020, by section 4(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **climate change**: inserted, on 2 March 2004, by section 4 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 2(1) **coastal marine area**: amended, on 7 July 1993, by section 2(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **collaborative group**: repealed, on 1 July 2020, by section 4(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **collaborative planning process**: repealed, on 1 July 2020, by section 4(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **combined document**: inserted, on 19 April 2017, by section 4(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **commercial fishing**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **common marine and coastal area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **company lease**: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 2(1) **consent authority**: replaced, on 7 July 1993, by section 2(7) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **consent authority**: amended, on 1 October 2009, by section 4(7) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **constable**: replaced, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 2(1) **contaminant**: amended, on 1 August 2003, by section 3(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **contaminated land**: replaced, on 1 October 2009, by section 4(8) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **controlled activity**: replaced, on 1 August 2003, by section 3(4) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **controlled activity**: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **costs and benefits**: repealed, on 7 July 1993, by section 2(9) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **Crown organisation**: inserted, on 1 October 2009, by section 4(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **customary marine title area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **customary marine title group**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **customary marine title order**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **customary rights order**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **declaration**: repealed, on 1 October 2009, by section 4(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **determination**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **development capacity**: inserted, on 19 April 2017, by section 4(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **Director of Maritime New Zealand** or **Director**: replaced, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Section 2(1) **discretionary activity**: replaced, on 1 August 2003, by section 3(5) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **discretionary activity**: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **district**: replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **district plan**: replaced, on 1 October 2009, by section 4(9) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **district rule**: replaced, on 1 October 2009, by section 4(10) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **dumping**: replaced, on 17 December 1997, by section 2(9) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 2(1) **employee**: inserted, on 1 October 2009, by section 4(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **enforcement officer**: replaced, on 1 July 2020, by section 4(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **Environment Court** and **court**: inserted, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 2(1) **Environmental Protection Authority** or **EPA**: replaced, on 1 July 2011, by section 4 of the Resource Management Amendment Act 2011 (2011 No 19).

Section 2(1) **equivalent zone**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **esplanade reserve**: replaced, on 7 July 1993, by section 2(11) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **esplanade strip**: inserted, on 7 July 1993, by section 2(11) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **existing use certificate**: inserted, on 10 August 2005, by section 4(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 2(1) **exploration**: inserted, on 26 November 1997, by section 4(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 2(1) **fast-track application**: inserted, on 18 October 2017, by section 124(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **fish**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **fisheries resources**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **fishing**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **foreshore and seabed reserve**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **freshwater** or **fresh water**: replaced, on 1 July 2020, by section 4(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **freshwater commissioner**: inserted, on 1 July 2020, by section 4(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **freshwater hearings panel**: inserted, on 1 July 2020, by section 4(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **freshwater planning instrument**: inserted, on 1 July 2020, by section 4(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **freshwater planning process**: inserted, on 1 July 2020, by section 4(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2(1) **Government road**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **greenhouse gas**: inserted, on 2 March 2004, by section 4 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 2(1) **harmful substance**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **harvestable spat**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **hazardous substance**: inserted, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Section 2(1) **historic heritage**: inserted, on 1 August 2003, by section 3(7) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **holder**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **incineration**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **industrial or trade premises**: amended, on 17 December 1997, by section 2(3) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 2(1) **infrastructure**: inserted, on 10 August 2005, by section 4(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 2(1) **infrastructure**: amended, on 19 April 2017, by section 4(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **infrastructure** paragraph (a): amended, on 1 October 2008, by section 17 of the Energy (Fuels, Levies, and References) Amendment Act 2008 (2008 No 60).

Section 2(1) **infringed boundary**: inserted, on 18 October 2017, by section 124(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **intensification planning instrument** or **IPI**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **intensification streamlined planning process** or **ISPP**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **internal waters**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **iwi participation legislation**: inserted, on 19 April 2017, by section 4(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **joint management agreement**: inserted, on 10 August 2005, by section 4(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 2(1) **kaitiakitanga**: replaced, on 17 December 1997, by section 2(4) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 2(1) **lake**: amended, on 7 July 1993, by section 2(12) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **land**: replaced, on 1 October 2009, by section 4(11) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **large lot residential zone**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **lawyer**: inserted, on 1 March 2017, by section 4 of the Resource Management Amendment Act 2016 (2016 No 68).

Section 2(1) **local board**: inserted, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 2(1) **management plan**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **Mana Whakahono a Rohe**: inserted, on 19 April 2017, by section 4(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **marine and coastal area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **marine farming**: repealed, on 1 January 2005, by section 4(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **marine incineration facility**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **Maritime New Zealand**: replaced, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Section 2(1) **master**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **medium density residential standards** or **MDRS**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **mineral**: replaced, on 7 July 1993, by section 2(13) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **mining**: inserted, on 26 November 1997, by section 4(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 2(1) **Minister of Aquaculture**: inserted, on 1 October 2011, by section 4(4) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 2(1) **Minister of Fisheries**: inserted, on 1 October 2011, by section 4(4) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 2(1) **mouth**: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 2(1) **national environmental standard**: inserted, on 10 August 2005, by section 4(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 2(1) **national planning standard**: inserted, on 19 April 2017, by section 4(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **National Policy Statement on Urban Development** or **NPS-UD**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **new residential zone**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **non-complying activity**: replaced, on 1 August 2003, by section 3(8) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **non-complying activity**: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **notice of decision**: inserted, on 1 August 2003, by section 3(8) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **occupier** paragraph (b): repealed, on 1 July 2003, by section 138(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 2(1) **occupy**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **offshore installation**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **oil transfer site**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **on-scene commander**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **operative**: replaced, on 1 October 2009, by section 4(12) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **owner**: replaced, on 1 February 1995, by section 2(1) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **permitted activity**: replaced, on 1 August 2003, by section 3(9) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **permitted activity**: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **plan**: replaced, on 1 October 2009, by section 4(13) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **planning document**: repealed, on 4 September 2013, by section 4 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 2(1) **Planning Tribunal** and **Tribunal**: repealed, on 17 December 1997, by section 2(6) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 2(1) **policy 3**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **policy 4**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **policy 5**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **policy statement**: replaced, on 1 October 2009, by section 4(14) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **production land** paragraph (b): amended, on 17 December 1997, by section 2(7) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 2(1) **prohibited activity**: replaced, on 1 August 2003, by section 3(10) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **prohibited activity**: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **proposed plan**: replaced, on 1 October 2009, by section 4(15) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **proposed policy statement**: inserted, on 1 October 2009, by section 4(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **prospecting**: inserted, on 26 November 1997, by section 4(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 2(1) **protected customary right**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **protected customary rights area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **protected customary rights group**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **protected customary rights order**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **public authority**: inserted, on 10 August 2005, by section 4(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 2(1) **public boundary**: inserted, on 18 October 2017, by section 124(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **public foreshore and seabed**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **public notice**: replaced, on 18 October 2017, by section 124(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 2(1) **qualifying matter**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **raft**: inserted, on 7 July 1993, by section 2(15) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **recognised customary activity**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **region**: replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **regional coastal plan**: replaced, on 1 October 2009, by section 4(17) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **regional council**: replaced, on 25 November 2004, by section 3(2) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 2(1) **regional plan**: replaced, on 1 October 2009, by section 4(18) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **regional policy statement**: replaced, on 1 October 2009, by section 4(19) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **regional road**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **regional rule**: replaced, on 1 October 2009, by section 4(20) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **relevant residential zone**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **renewable energy**: inserted, on 2 March 2004, by section 4 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 2(1) **reservation**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **residential unit**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **residential zone**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **restricted coastal activity**: replaced, on 1 October 2009, by section 4(21) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **restricted discretionary activity**: inserted, on 1 August 2003, by section 3(13) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **restricted discretionary activity**: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **river**: replaced, on 7 July 1993, by section 2(16) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **RMA permission right**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **road**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **road**: amended, on 7 July 1993, by section 2(17) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **rule**: replaced, on 1 October 2009, by section 4(22) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **seaweed**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **settlement zone**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **ship**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **soil conservation**: inserted, on 1 August 2003, by section 3(14) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 2(1) **space**: inserted, on 1 January 2005, by section 4(3) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **spat**: repealed, on 1 January 2005, by section 4(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **spat catching**: repealed, on 1 January 2005, by section 4(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **specified territorial authority**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(2) **State highway**: amended, on 1 August 2008 , by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **structure**: amended, on 7 July 1993, by section 2(18) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 2(1) **submission**: replaced, on 1 October 2009, by section 4(23) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **survey plan**: replaced, on 1 October 2009, by section 4(24) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **survey plan** paragraph (a)(i): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 2(1) **survey plan** paragraph (a)(ii): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 2(1) **taking**: repealed, on 1 January 2005, by section 4(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 2(1) **territorial authority**: replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **territorial sea**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **tier 1 territorial authority**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **tier 2 territorial authority**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **tier 3 territorial authority**: inserted, on 21 December 2021, by section 4 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 2(1) **unit**: amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Section 2(1) **unit plan**: replaced, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Section 2(1) **unitary authority**: inserted, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 2(1) **use**: inserted, on 1 October 2009, by section 4(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **variation**: replaced, on 1 October 2009, by section 4(25) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2(1) **waste or other matter**: inserted, on 1 February 1995, by section 2(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 2(1) **working day**: replaced, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1) **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

## 2AA Definitions relating to notification

(1) The definitions in subsection (2) apply only in relation to—

(a) an application for a resource consent for an activity; or

(b) any of the following matters:

(i) a review of a resource consent:

(ii) an application to change or cancel a condition of a resource consent:

(iii) a notice of requirement for a designation or heritage order:

(iv) a notice of requirement to alter a designation or heritage order:

(v) an application or proposal to vary or cancel an instrument creating an esplanade strip:

(vi) a matter of creating an esplanade strip by agreement.

(2) In this Act, unless the context otherwise requires,—

**affected customary marine title group** has the meaning given in section 95G

**affected person** means a person who, under section 95E or 149ZCF, is an affected person in relation to the application or matter

**affected protected customary rights group** has the meaning given in section 95F

**limited notification** means serving notice of the application or matter on any affected person within the time limit specified by section 95, 169(1), or 190(1)

**notification** means public notification or limited notification of the application or matter

**public notification** means giving public notice by—

(a) giving notice of the application or matter in the manner required by section 2AB; and

(b) giving that notice within the time limit specified by section 95, 169(1), or 190(1); and

(c) serving notice of the application or matter on every prescribed person.

Section 2AA: inserted, on 1 October 2009, by section 5 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 2AA(2): replaced, on 18 October 2017, by section 125 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 2AB Meaning of public notice

(1) If this Act requires a person to give **public notice** of something, the person must—

(a) publish on an Internet site to which the public has free access a notice that—

(i) includes all the information that is required to be publicly notified; and

(ii) is in the prescribed form (if any); and

(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates.

(2) The notice and the short summary of the notice must be worded in a way that is clear and concise.

Section 2AB: inserted, on 18 October 2017, by section 126 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 2AC Availability of documents

*Interpretation*

(1) In this section, **document** includes the following if they are required to be made available for inspection to the public, a class of members of the public, a person, or a class of persons, whether free of charge or at a reasonable cost:

(a) information of any kind; and

(b) public notices of any kind; and

(c) reports and evidence of any kind; and

(d) policy statements and plans of any kind, together with any changes or variations of those documents.

*Application of this section*

(2) This section applies if this Act requires a document to be made available for inspection in physical form to the public, a class of members of the public, a person, or a class of persons at a specified place such as council offices or a library.

(3) This section applies on and from 25 March 2020.

*How documents may be made available*

(4) The requirement referred to in subsection (2) is satisfied if the person responsible for making the document available—

(a) makes it available in electronic form free of charge on an Internet site; and

(b) provides advice on how the document may be obtained or accessed.

(5) In addition, the person responsible for making a document available may—

(a) make it available for inspection; and

(b) upon request, make a physical copy of the document available for purchase at a reasonable cost.

*Repeal*

*[Repealed]*

(6) *[Repealed]*

Section 2AC: inserted, on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section 2AC heading: amended, on 1 July 2020, by section 5(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2AC(6) heading: repealed, on 1 July 2020, by section 5(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 2AC(6): repealed, on 1 July 2020, by section 5(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## 2A Successors

(1) In this Act, unless the context otherwise requires, any reference to a **person**, however described or referred to (including applicant and consent holder), includes the successor of that person.

(2) For the purposes of this Act, where the person is a body of persons which is unincorporate, the successor shall include a body of persons which is corporate and composed of substantially the same members.

Section 2A: inserted, on 2 September 1996, by section 3 of the Resource Management Amendment Act 1996 (1996 No 160).

## 3 Meaning of effect

In this Act, unless the context otherwise requires, the term **effect** includes—

(a) any positive or adverse effect; and

(b) any temporary or permanent effect; and

(c) any past, present, or future effect; and

(d) any cumulative effect which arises over time or in combination with other effects—

regardless of the scale, intensity, duration, or frequency of the effect, and also includes—

(e) any potential effect of high probability; and

(f) any potential effect of low probability which has a high potential impact.

Section 3: amended, on 7 July 1993, by section 3 of the Resource Management Amendment Act 1993 (1993 No 65).

### 3A Person acting under resource consent with permission

Subject to section 134 and any specific conditions included in the resource consent, any reference in this Act to activities being allowed by a resource consent includes a reference to a person acting under a resource consent with the permission (including implied permission) of the consent holder as if the resource consent had been granted to that person as well as to the holder of the resource consent.

Section 3A: inserted, on 7 July 1993, by section 4 of the Resource Management Amendment Act 1993 (1993 No 65).

### 3B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 12 have effect according to their terms.

Section 3B: inserted, on 19 April 2017, by section 5 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 4 Act to bind the Crown

(1) This Act binds the Crown, except as provided in this section.

(2) This Act does not apply to any work or activity of the Crown which—

(a) is a use of land within the meaning of section 9; and

(b) the Minister of Defence certifies is necessary for reasons of national security.

(3) Section 9(3) does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) that—

(a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and

(b) does not have a significant adverse effect beyond the boundary of the area of land.

(3A) Section 9 does not apply to the detention of prisoners in a court cell block that is declared by notice in the *Gazette* to be a part of a corrections prison.

(4) *[Repealed]*

(5) An abatement notice or excessive noise direction may be served or issued against an instrument of the Crown, in accordance with this Act, only if—

(a) it is a Crown organisation; and

(b) the notice or direction is served or issued against the Crown organisation in its own name.

(6) An enforcement order may be made against an instrument of the Crown, in accordance with this Act, only if—

(a) it is a Crown organisation; and

(b) a local authority or the EPA applies for the order; and

(c) the order is made against the Crown organisation in its own name.

(7) Subsections (5) and (6) apply despite section 17(1)(a) of the Crown Proceedings Act 1950.

(8) An instrument of the Crown may be served with an infringement notice, in accordance with this Act, only if—

(a) it is liable to be proceeded against for the alleged offence under subsection (9); and

(b) the notice is served against the Crown organisation in its own name.

(9) An instrument of the Crown may be prosecuted for an offence against this Act only if—

(a) it is a Crown organisation; and

(b) the offence is alleged to have been committed by the Crown organisation; and

(c) the proceedings are commenced—

(i) by a local authority, the EPA, or an enforcement officer; and

(ii) against the Crown organisation in its own name and the proceedings do not cite the Crown as a defendant; and

(iii) in accordance with the Crown Organisations (Criminal Liability) Act 2002.

(10) However, subsections (8) and (9) are subject to section 8(4) of the Crown Organisations (Criminal Liability) Act 2002 (which provides that a court may not sentence a Crown organisation to pay a fine in respect of an offence against this Act).

(11) If a Crown organisation is not a body corporate, it is to be treated as if it were a separate legal personality for the purposes of—

(a) serving or issuing an abatement notice or excessive noise direction against it; and

(b) making an enforcement order against it; and

(c) serving an infringement notice on it; and

(d) enforcing an abatement notice, excessive noise direction, enforcement order, or infringement notice in relation to it.

(12) Except to the extent and in the manner provided for in subsections (5) to (11), the Crown may not—

(a) be served or issued with an abatement notice or excessive noise direction; or

(b) have an enforcement order made against it; or

(c) be served with an infringement notice; or

(d) be prosecuted for an offence against this Act.

Section 4(1): replaced, on 1 October 2009, by section 6(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(3): replaced, on 7 July 1993, by section 5 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 4(3): amended, on 1 October 2009, by section 6(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(3A): inserted, on 8 December 2009, by section 5 of the Corrections (Use of Court Cells) Amendment Act 2009 (2009 No 60).

Section 4(4): repealed, on 7 July 1993, by section 5 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 4(5): replaced, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(6): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(6)(b): amended, on 1 July 2020, by section 6(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 4(7): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(8): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(9): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(9)(c)(i): amended, on 1 July 2020, by section 6(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 4(10): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(11): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 4(12): inserted, on 1 October 2009, by section 6(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 4A Application of this Act to ships and aircraft of foreign States

Except as otherwise expressly provided in any regulations made under this Act, this Act does not apply to any of the following:

(a) warships of any State other than New Zealand:

(b) aircraft of the defence forces of any State other than New Zealand:

(c) any ship owned or operated by any State other than New Zealand, if the ship is being used by that State for wholly governmental (but not including commercial) purposes:

(d) the master or crew of any warship, aircraft, or ship referred to in paragraphs (a) to (c).

Section 4A: inserted, on 20 August 1998, by section 3 of the Resource Management Amendment Act 1994 (1994 No 105).

# Part 2
# Purpose and principles

## 5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

## 6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

(f) the protection of historic heritage from inappropriate subdivision, use, and development:

(g) the protection of protected customary rights:

(h) the management of significant risks from natural hazards.

Section 6(f): inserted, on 1 August 2003, by section 4 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 6(g): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 6(h): inserted, on 19 April 2017, by section 6 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga:

(aa) the ethic of stewardship:

(b) the efficient use and development of natural and physical resources:

(ba) the efficiency of the end use of energy:

(c) the maintenance and enhancement of amenity values:

(d) intrinsic values of ecosystems:

(e) *[Repealed]*

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

(h) the protection of the habitat of trout and salmon:

(i) the effects of climate change:

(j) the benefits to be derived from the use and development of renewable energy.

Section 7(aa): inserted, on 17 December 1997, by section 3 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 7(ba): inserted, on 2 March 2004, by section 5(1) of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 7(e): repealed, on 1 August 2003, by section 5 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 7(i): inserted, on 2 March 2004, by section 5(2) of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 7(j): inserted, on 2 March 2004, by section 5(2) of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

### 8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

## Part 3
## Duties and restrictions under this Act

*Land*

### 9 Restrictions on use of land

(1) No person may use land in a manner that contravenes a national environmental standard unless the use—

(a) is expressly allowed by a resource consent; or

(b) is allowed by section 10; or

(c) is an activity allowed by section 10A; or

(d) is an activity allowed by section 20A.

(2) No person may use land in a manner that contravenes a regional rule unless the use—

(a) is expressly allowed by a resource consent; or

(b) is an activity allowed by section 20A.

(3) No person may use land in a manner that contravenes a district rule unless the use—

(a) is expressly allowed by a resource consent; or

(b) is allowed by section 10; or

(c) is an activity allowed by section 10A.

(4) No person may contravene section 176, 178, 193, or 194 unless the person obtains the prior written consent of the requiring authority or the heritage protection authority.

(5) This section applies to overflying by aircraft only to the extent to which noise emission controls for airports have been prescribed by a national environmental standard or set by a territorial authority.

(6) This section does not apply to use of the coastal marine area.

Section 9: replaced, on 1 October 2009, by section 7 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 10 Certain existing uses in relation to land protected

(1) Land may be used in a manner that contravenes a rule in a district plan or proposed district plan if—

(a) either—

(i) the use was lawfully established before the rule became operative or the proposed plan was notified; and

(ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:

(b) or—

(i) the use was lawfully established by way of a designation; and

(ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.

(2) Subject to sections 357 to 358, this section does not apply when a use of land that contravenes a rule in a district plan or a proposed district plan has been discontinued for a continuous period of more than 12 months after the rule in the plan became operative or the proposed plan was notified unless—

(a) an application has been made to the territorial authority within 2 years of the activity first being discontinued; and

(b) the territorial authority has granted an extension upon being satisfied that—

(i) the effect of the extension will not be contrary to the objectives and policies of the district plan; and

(ii) the applicant has obtained approval from every person who may be adversely affected by the granting of the extension, unless in the authority's opinion it is unreasonable in all the circumstances to require the obtaining of every such approval.

(3) This section does not apply if reconstruction or alteration of, or extension to, any building to which this section applies increases the degree to which the building fails to comply with any rule in a district plan or proposed district plan.

(4) For the avoidance of doubt, this section does not apply to any use of land that is—

(a) controlled under section 30(1)(c) (regional control of certain land uses); or

(b) restricted under section 12 (coastal marine area); or

(c) restricted under section 13 (certain river and lake bed controls).

(5) Nothing in this section limits section 20A (certain existing lawful activities allowed).

(6) *[Repealed]*

Section 10(1): replaced, on 7 July 1993, by section 7(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10(2): amended, on 10 August 2005, by section 5 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 10(2)(b)(i): amended, on 7 July 1993, by section 7(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10(3): amended, on 7 July 1993, by section 7(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10(5): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 10(6): repealed, on 1 October 2009, by section 8 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 10A Certain existing activities allowed

(1) In respect of the use of the surface of water in lakes and rivers where, as a result of a rule in a district plan becoming operative, or a rule in a proposed district plan taking legal effect in accordance with section 86B or 149N(8), an activity that formerly was a permitted activity or that otherwise could have been lawfully carried out without a resource consent requires consent, the activity may continue to be carried on after the rule in the plan becomes operative, or the rule in the proposed plan takes legal effect in accordance with section 86B or 149N(8), if—

(a) the activity was lawfully established before the rule in the plan became operative or the rule in the proposed plan took legal effect in accordance with section 86B or 149N(8); and

(b) the effects of the activity are the same or similar in character, intensity, and scale to those which existed before the rule in the plan became operative or the rule in the proposed plan took legal effect in accordance with section 86B or 149N(8); and

(c) the person carrying on the activity applies for a resource consent from the appropriate consent authority within 6 months of the rule in the plan becoming operative.

(2) Any activity to which this section applies, and for which a resource consent has been applied for in accordance with subsection (1)(c), may continue to be carried on until the application has been decided and any appeals have been determined.

Section 10A: inserted, on 7 July 1993, by section 8 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 10A(1): amended, on 1 October 2009, by section 9(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10A(1): amended, on 1 October 2009, by section 9(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10A(1): amended, on 1 October 2009, by section 9(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10A(1): amended, on 1 October 2009, by section 9(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10A(1)(a): amended, on 1 October 2009, by section 9(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10A(1)(b): amended, on 1 October 2009, by section 9(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 10B Certain existing building works allowed

(1) Land may be used in a manner that contravenes a rule in a district plan or proposed district plan if the use of land is a building work or intended use of a building (as defined in section 7 of the Building Act 2004) which is deemed to be lawfully established in accordance with subsection (2).

(2) Subject to subsection (3), the building work or intended use of the building shall be deemed to be lawfully established if—

(a) a building consent was issued and any amendments were incorporated in the building consent in accordance with the Building Act 2004 for the building work or intended use of the building before the rule in a district plan or proposed district plan took legal effect in accordance with section 86B or 149N(8); and

(b) the building work or intended use of the building, as stated on the building consent, would not, at the time the building consent was issued and any amendments were incorporated, have contravened a rule in a district plan or proposed district plan or otherwise could have been carried out without a resource consent.

(3) Subsection (2) shall not apply if—

(a) the building consent is amended (after the rule in the district plan or proposed plan has taken legal effect in accordance with section 86B or 149N(8)) in such a way that the effects of the building work or intended use of a building will no longer be the same or similar in character, intensity, and scale as before the amendment; or

(b) the building consent has lapsed or is cancelled, but the issuing under the Building Act 2004 of a code compliance certificate in respect of the building work shall not, for the purposes of this section, be deemed to have cancelled the building consent for that work; or

(c) a code compliance certificate for the building work has not been issued in accordance with the Building Act 2004 within 2 years after the rule in the district plan or proposed district plan took legal effect in accordance with section 86B or 149N(8) or within such further period as the territorial authority may allow upon being satisfied that reasonable progress has been made towards completion of the building work within that 2-year period.

(4) Section 10(4) and (5) apply to this section.

Section 10B: inserted, on 2 September 1996, by section 4 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 10B(1): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 10B(2)(a): amended, on 1 October 2009, by section 10(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10B(2)(a): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 10B(3)(a): amended, on 1 October 2009, by section 10(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10B(3)(b): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 10B(3)(c): amended, on 1 October 2009, by section 10(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 10B(3)(c): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 10B(4): replaced, on 1 October 2009, by section 10(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 11 Restrictions on subdivision of land

(1) No person may subdivide land, within the meaning of section 218, unless the subdivision is—

(a) first, expressly allowed by a national environmental standard, a rule in a district plan as well as a rule in a proposed district plan for the same district (if there is one), or a resource consent; and second, is shown on one of the following:

(i) a survey plan, as defined in paragraph (a)(i) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land; or

(ii) a survey plan, as defined in paragraph (a)(ii) of the definition of survey plan in section 2(1), approved as described in section 228 by the Chief Surveyor; or

(iii) a survey plan, as defined in paragraph (b) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land; or

(b) effected by the acquisition, taking, transfer, or disposal of part of an allotment under the Public Works Act 1981 (except that, in the case of the disposition of land under the Public Works Act 1981, each existing separate parcel of land shall, unless otherwise provided by that Act, be disposed of without further division of that parcel of land); or

(c) effected by the establishment, change, or cancellation of a reserve under section 338 of Te Ture Whenua Maori Act 1993; or

(ca) effected by a transfer under section 23 of the State-Owned Enterprises Act 1986 or a resumption under section 27D of that Act; or

(cb) effected by any vesting in or transfer or gift of any land to the Crown or any local authority or administering body (as defined in section 2 of the Reserves Act 1977) for the purposes (other than administrative purposes) of the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; or

(cc) effected by transfer or gift of any land to Heritage New Zealand Pouhere Taonga or the Queen Elizabeth the Second National Trust for the purposes of the Heritage New Zealand Pouhere Taonga Act 2014 or the Queen Elizabeth the Second National Trust Act 1977; or

(d) effected by any transfer, exchange, or other disposition of land made by an order under subpart 3 of Part 6 of the Property Law Act 2007 (which relates to the granting of access to landlocked land).

(1A) *[Repealed]*

(2) Subsection (1) does not apply in respect of Maori land within the meaning of Te Ture Whenua Maori Act 1993 unless that Act otherwise provides.

Section 11(1)(a): replaced, on 1 July 2020, by section 7(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 11(1)(c): amended, on 7 July 1993, by section 9(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 11(1)(c): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 11(1)(ca): inserted, on 7 July 1993, by section 9(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 11(1)(cb): inserted, on 7 July 1993, by section 9(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 11(1)(cc): inserted, on 7 July 1993, by section 9(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 11(1)(cc): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 11(1)(d): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 11(1A): repealed, on 1 July 2020, by section 7(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 11(2): amended, on 7 July 1993, by section 9(4) of the Resource Management Amendment Act 1993 (1993 No 65).

## *Coastal marine area*

### 12 Restrictions on use of coastal marine area

(1) No person may, in the coastal marine area,—

(a) reclaim or drain any foreshore or seabed; or

(b) erect, reconstruct, place, alter, extend, remove, or demolish any structure or any part of a structure that is fixed in, on, under, or over any foreshore or seabed; or

(c) disturb any foreshore or seabed (including by excavating, drilling, or tunnelling) in a manner that has or is likely to have an adverse effect on the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal); or

(d) deposit in, on, or under any foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on the foreshore or seabed; or

(e) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on plants or animals or their habitat; or

(f) introduce or plant any exotic or introduced plant in, on, or under the foreshore or seabed; or

(g) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on historic heritage—

unless expressly allowed by a national environmental standard, a rule in a regional coastal plan as well as a rule in a proposed regional coastal plan for the same region (if there is one), or a resource consent.

(2) No person may, unless expressly allowed by a national environmental standard, a rule in a regional coastal plan or in any proposed regional coastal plan for the same region, or a resource consent,—

(a) occupy any part of the common marine and coastal area; or

(b) remove any sand, shingle, shell, or other natural material from that area.

(3) Without limiting subsection (1), no person may carry out any activity—

(a) in, on, under, or over any coastal marine area; or

(b) in relation to any natural and physical resources contained within any coastal marine area,—

in a manner that contravenes a national environmental standard, a rule in a regional coastal plan, or a rule in a proposed regional coastal plan for the same region (if there is one) unless the activity is expressly allowed by a resource consent or allowed by section 20A (certain existing lawful activities allowed).

(4) In this Act,—

(a) *[Repealed]*

(b) **remove any sand, shingle, shell, or other natural material** means to take any of that material in such quantities or in such circumstances that, but for the national environmental standard or the rule in the regional coastal plan or the holding of a resource consent, a licence or profit à prendre to do so would be necessary.

(5) This section applies to overflying by aircraft only to the extent to which noise emission controls for airports within the coastal marine area have been prescribed by a national environmental standard or set by a regional council.

(6) This section shall not apply to anything to which section 15A or 15B applies.

(7) This section does not prohibit a regional council from removing structures from the common marine and coastal area, in accordance with the requirements of section 19(3) to (3C) of the Marine and Coastal Area (Takutai Moana) Act 2011, unless those structures are permitted by a coastal permit.

Section 12(1): amended, on 1 October 2009, by section 12(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 12(1): amended, on 7 July 1993, by section 10(1)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 12(1): amended, on 7 July 1993, by section 10(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 12(1)(f): amended, on 1 August 2003, by section 6 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 12(1)(g): inserted, on 1 August 2003, by section 6 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 12(2): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 12(3): amended, on 1 October 2009, by section 12(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 12(3): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 12(4): amended, on 17 December 1997, by section 4(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 12(4): amended, on 7 July 1993, by section 10(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 12(4)(a): repealed, on 1 January 2005, by section 5 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 12(4)(b): amended, on 1 October 2009, by section 12(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 12(4)(b): amended, on 7 July 1993, by section 10(5) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 12(5): replaced, on 1 October 2009, by section 12(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 12(6): inserted, on 20 August 1998, by section 4 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 12(6): amended, on 20 August 1998, by section 4(4) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 12(7): inserted, on 19 April 2017, by section 7 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 12A Restrictions on aquaculture activities in coastal marine area and on other activities in aquaculture management areas

*[Repealed]*

Section 12A: repealed, on 1 October 2011, by section 5 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 12B Continuation of coastal permit for aquaculture activities if aquaculture management area ceases to exist

*[Repealed]*

Section 12B: repealed, on 1 October 2011, by section 6 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## *River and lake beds*

### 13 Restriction on certain uses of beds of lakes and rivers

(1) No person may, in relation to the bed of any lake or river,—

(a) use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or

(b) excavate, drill, tunnel, or otherwise disturb the bed; or

(c) introduce or plant any plant or any part of any plant (whether exotic or indigenous) in, on, or under the bed; or

(d) deposit any substance in, on, or under the bed; or

(e) reclaim or drain the bed—

unless expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.

(2) No person may do an activity described in subsection (2A) in a manner that contravenes a national environmental standard or a regional rule unless the activity—

(a) is expressly allowed by a resource consent; or

(b) is an activity allowed by section 20A.

(2A) The activities are—

(a) to enter onto or pass across the bed of a lake or river:

(b) to damage, destroy, disturb, or remove a plant or a part of a plant, whether exotic or indigenous, in, on, or under the bed of a lake or river:

(c) to damage, destroy, disturb, or remove the habitats of plants or parts of plants, whether exotic or indigenous, in, on, or under the bed of a lake or river:

(d) to damage, destroy, disturb, or remove the habitats of animals in, on, or under the bed of a lake or river.

(3) This section does not apply to any use of land in the coastal marine area.

(4) Nothing in this section limits section 9.

Section 13 heading: amended, on 7 July 1993, by section 11 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 13(1): replaced, on 7 July 1993, by section 11 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 13(1): amended, on 1 October 2009, by section 13(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 13(2): replaced, on 1 October 2009, by section 13(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 13(2A): inserted, on 1 October 2009, by section 13(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Water*

### 14 Restrictions relating to water

(1) No person may take, use, dam, or divert any open coastal water, or take or use any heat or energy from any open coastal water, in a manner that contravenes a national environmental standard or a regional rule unless the activity—

(a) is expressly allowed by a resource consent; or

(b) is an activity allowed by section 20A.

(2) No person may take, use, dam, or divert any of the following, unless the taking, using, damming, or diverting is allowed by subsection (3):

(a) water other than open coastal water; or

(b) heat or energy from water other than open coastal water; or

(c) heat or energy from the material surrounding geothermal water.

(3) A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if—

(a) the taking, using, damming, or diverting is expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent; or

(b) in the case of fresh water, the water, heat, or energy is required to be taken or used for—

(i) an individual's reasonable domestic needs; or

(ii) the reasonable needs of a person's animals for drinking water,—

and the taking or use does not, or is not likely to, have an adverse effect on the environment; or

(c) in the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Maori for the communal benefit of the

tangata whenua of the area and does not have an adverse effect on the environment; or

(d) in the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual's reasonable domestic or recreational needs and the taking, use, or diversion does not, or is not likely to, have an adverse effect on the environment; or

(e) the water is required to be taken or used for emergency or training purposes in accordance with section 48 of the Fire and Emergency New Zealand Act 2017.

Section 14(1): replaced, on 1 October 2009, by section 14(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 14(2): replaced, on 1 October 2009, by section 14(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 14(3): amended, on 1 October 2009, by section 14(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 14(3)(a): amended, on 1 October 2009, by section 14(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 14(3)(b)(ii): amended, on 19 April 2017, by section 8 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 14(3)(e): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

## *Discharges*

### 15 Discharge of contaminants into environment

(1) No person may discharge any—

(a) contaminant or water into water; or

(b) contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or

(c) contaminant from any industrial or trade premises into air; or

(d) contaminant from any industrial or trade premises onto or into land—

unless the discharge is expressly allowed by a national environmental standard or other regulations, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.

(2) No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a national environmental standard unless the discharge—

(a) is expressly allowed by other regulations; or

(b) is expressly allowed by a resource consent; or

(c) is an activity allowed by section 20A.

(2A) No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a regional rule unless the discharge—

(a) is expressly allowed by a national environmental standard or other regulations; or

(b) is expressly allowed by a resource consent; or

(c) is an activity allowed by section 20A.

(3) This section shall not apply to anything to which section 15A or section 15B applies.

Section 15(1): amended, on 1 October 2009, by section 15(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 15(2): replaced, on 1 October 2009, by section 15(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 15(2A): inserted, on 1 October 2009, by section 15(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 15(3): inserted, on 20 August 1998, by section 5 of the Resource Management Amendment Act 1994 (1994 No 105).

### 15A Restrictions on dumping and incineration of waste or other matter in coastal marine area

(1) No person may, in the coastal marine area,—

(a) dump any waste or other matter from any ship, aircraft, or offshore installation; or

(b) incinerate any waste or other matter in any marine incineration facility—

unless the dumping or incineration is expressly allowed by a resource consent.

(2) No person may dump, in the coastal marine area, any ship, aircraft, or offshore installation unless expressly allowed to do so by a resource consent.

(3) Nothing in this section permits the dumping of radioactive waste or radioactive matter (to which section 15C applies) or any discharge of a harmful substance that would contravene section 15B.

Section 15A: inserted, on 20 August 1998, by section 6 of the Resource Management Amendment Act 1994 (1994 No 105).

### 15B Discharge of harmful substances from ships or offshore installations

(1) No person may, in the coastal marine area, discharge a harmful substance or contaminant, from a ship or offshore installation into water, onto or into land, or into air, unless—

(a) the discharge is permitted or controlled by regulations made under this Act, a rule in a regional coastal plan, proposed regional coastal plan, regional plan, proposed regional plan, or a resource consent; or

(b) after reasonable mixing, the harmful substance or contaminant discharged (either by itself or in combination with any other discharge) is

not likely to give rise to all or any of the following effects in the receiving waters:

(i) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(ii) any conspicuous change of colour or visual clarity:

(iii) any emission of objectionable odour:

(iv) any significant adverse effects on aquatic life; or

(c) the harmful substance or contaminant, when discharged into air, is not likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have a significant adverse effect on the environment.

(2) No person may, in the coastal marine area, discharge water into water from any ship or offshore installation, unless—

(a) the discharge is permitted or controlled by regulations made under this Act, a rule in a regional coastal plan, proposed regional coastal plan, regional plan, proposed regional plan, or a resource consent; or

(b) after reasonable mixing, the water discharged is not likely to give rise to any significant adverse effects on aquatic life.

(3) Where regulations are made under this Act permitting or controlling a discharge to which subsections (1) or (2) apply, no rule can be included in a regional coastal plan, proposed regional coastal plan, regional plan, or proposed regional plan, or a resource consent granted relating to that discharge unless the regulations provide otherwise; and regulations may be made prohibiting the making of rules or the granting of resource consents for discharges.

(4) No person may discharge a harmful substance or contaminant in reliance upon subsection (1)(b) or (c) or subsection (2)(b) if a regulation made under this Act, a rule, or a resource consent applies to that discharge; and regulations or rules may be made prohibiting a discharge which would otherwise be permitted in accordance with subsection (1)(b) or (c) or subsection (2)(b).

(5) A discharge authorised by subsection (1) or subsection (2), regulations made under this Act, a rule, or a resource consent may, despite section 7 of the Biosecurity Act 1993, be prohibited or controlled by that Act to exclude, eradicate, or effectively manage pests or unwanted organisms.

Section 15B: replaced, on 20 August 1998, by section 6 of the Resource Management Amendment Act 1997 (1997 No 104).

### 15C Prohibitions in relation to radioactive waste or other radioactive matter and other waste in coastal marine area

(1) Notwithstanding anything to the contrary in this Act, no person may, in the coastal marine area,—

(a) dump from any ship, aircraft, or offshore installation any radioactive waste or other radioactive matter; or

(b) store any radioactive waste or other radioactive matter or toxic or hazardous waste on or in any land or water.

(2) In this section,—

**radioactive waste or other radioactive matter** has the same meaning as in section 257 of the Maritime Transport Act 1994

**toxic or hazardous waste** means any waste or other matter prescribed as toxic or hazardous waste by regulations.

Section 15C: inserted, on 20 August 1998, by section 6 of the Resource Management Amendment Act 1994 (1994 No 105).

*Noise*

### 16 Duty to avoid unreasonable noise

(1) Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or the coastal marine area, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

(2) A national environmental standard, plan, or resource consent made or granted for the purposes of any of sections 9, 12, 13, 14, 15, 15A, and 15B may prescribe noise emission standards, and is not limited in its ability to do so by subsection (1).

Section 16(1): amended, on 7 July 1993, by section 14 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 16(2): replaced, on 1 October 2009, by section 16 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Adverse effects*

### 17 Duty to avoid, remedy, or mitigate adverse effects

(1) Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with—

(a) any of sections 10, 10A, 10B, and 20A; or

(b) a national environmental standard, a rule, a resource consent, or a designation.

(2) The duty referred to in subsection (1) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

(3) Notwithstanding subsection (2), an enforcement order or abatement notice may be made or served under Part 12 to—

(a) require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the Environment Court or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; or

(b) require a person to do something that, in the opinion of the Environment Court or an enforcement officer, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by, or on behalf of, that person.

(4) Subsection (3) is subject to section 319(2) (which specifies when an Environment Court shall not make an enforcement order).

Section 17(1): replaced, on 1 October 2009, by section 17 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 17(3)(a): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 17(3)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 17(4): inserted, on 7 July 1993, by section 15(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 17(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

*Recognised customary activities*

*[Repealed]*

Heading: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 17A Recognised customary activity may be exercised in accordance with any controls

*[Repealed]*

Section 17A: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 17B Adverse effects assessment

*[Repealed]*

Section 17B: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

*Emergencies*

### 18 Possible defence in cases of unforeseen emergencies

(1) Any person who is prosecuted under section 338 for an offence arising from any contravention of any of sections 9, 11, 12, 13, 14, 15, 15A, and 15B may raise any applicable defence that is referred to in section 341 or section 341A or section 341B.

(2) No person may be prosecuted for acting in accordance with section 330 (which relates to certain activities undertaken in an emergency).

Section 18(1): replaced, on 20 August 1998, by section 8 of the Resource Management Amendment Act 1994 (1994 No 105).

*Procedure*

Heading: inserted, on 19 April 2017, by section 9 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 18A Procedural principles

Every person exercising powers and performing functions under this Act must take all practicable steps to—

(a) use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised; and

(b) ensure that policy statements and plans—

(i) include only those matters relevant to the purpose of this Act; and

(ii) are worded in a way that is clear and concise; and

(c) promote collaboration between or among local authorities on their common resource management issues.

Section 18A: inserted, on 19 April 2017, by section 9 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Effect of certain changes to plans*

*[Repealed]*

Heading: repealed, on 1 October 2009, by section 18 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 19 Certain rules in proposed plans to be operative

*[Repealed]*

Section 19: repealed, on 1 October 2009, by section 18 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 20 Certain rules in proposed plans not to have effect

*[Repealed]*

Section 20: repealed, on 1 October 2009, by section 18 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Certain existing lawful activities allowed*

Heading: inserted, on 1 October 2009, by section 19 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 20A Certain existing lawful activities allowed

(1) If, as a result of a rule in a proposed regional plan taking legal effect in accordance with section 86B or 149N(8), an activity requires a resource consent, the activity may continue until the rule becomes operative if,—

(a) before the rule took legal effect in accordance with section 86B or 149N(8), the activity—

(i) was a permitted activity or otherwise could have been lawfully carried on without a resource consent; and

(ii) was lawfully established; and

(b) the effects of the activity are the same or similar in character, intensity, and scale to the effects that existed before the rule took legal effect in accordance with section 86B or 149N(8); and

(c) the activity has not been discontinued for a continuous period of more than 6 months (or a longer period fixed by a rule in the proposed regional plan in any particular case or class of case by the regional council that is responsible for the proposed plan) since the rule took legal effect in accordance with section 86B or 149N(8).

(2) If, as a result of a rule in a regional plan becoming operative, an activity requires a resource consent, the activity may continue after the rule becomes operative if,—

(a) before the rule became operative, the activity—

(i) was a permitted activity or allowed to continue under subsection (1) or otherwise could have been lawfully carried on without a resource consent; and

(ii) was lawfully established; and

(b) the effects of the activity are the same or similar in character, intensity, and scale to the effects that existed before the rule became operative; and

(c) the person carrying on the activity has applied for a resource consent from the appropriate consent authority within 6 months after the date the rule became operative and the application has not been decided or any appeals have not been determined.

Section 20A: replaced, on 1 August 2003, by section 8 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 20A(1): amended, on 1 October 2009, by section 20(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 20A(1)(a): amended, on 1 October 2009, by section 20(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 20A(1)(b): amended, on 1 October 2009, by section 20(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 20A(1)(c): amended, on 1 October 2009, by section 20(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Miscellaneous provisions*

### 21 Avoiding unreasonable delay

Every person who exercises or carries out functions, powers, or duties, or is required to do anything, under this Act for which no time limits are prescribed shall do so as promptly as is reasonable in the circumstances.

### 22 Duty to give certain information

(1) This section applies when an enforcement officer has reasonable grounds to believe that a person (**person A**) is breaching or has breached any of the obligations under this Part.

(2) The enforcement officer may direct person A to give the officer the following information:

(a) if person A is a natural person, his or her full name, address, and date of birth:

(b) if person A is not a natural person, person A's full name and address.

(3) The enforcement officer may also direct person A to give the officer the following information about a person (**person B**) on whose behalf person A is breaching or has breached the obligations under this Part:

(a) if person B is a natural person, his or her full name, address, and date of birth:

(b) if person B is not a natural person, person B's full name and address.

Section 22: replaced, on 1 October 2009, by section 21 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 23 Other legal requirements not affected

(1) Compliance with this Act does not remove the need to comply with all other applicable legislation and other rules of law.

(2) The duties and restrictions described in this Part shall only be enforceable against any person through the provisions of this Act; and no person shall be liable to any other person for a breach of any such duty or restriction except in accordance with the provisions of this Act.

(3) Nothing in subsection (2) limits or affects any right of action which any person may have independently of the provisions of this Act.

Section 23(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

# Part 4
# Functions, powers, and duties of central and local government

*Functions, powers, and duties of Ministers*

## 24 Functions of Minister for the Environment

The Minister for the Environment shall have the following functions under this Act:

(a) the recommendation of the issue of national policy statements under section 52:

(b) the recommendation of the making of national environmental standards:

(ba) the approval of a national planning standard under section 58E:

(c) to decide whether to intervene in a matter, or to make a direction for a matter that is or is part of a proposal of national significance, under Part 6AA:

(d) the recommendation of the approval of an applicant as a requiring authority under section 167 or a heritage protection authority under section 188:

(e) the recommendation of the issue of water conservation orders under section 214:

(f) the monitoring of the effect and implementation of this Act (including any regulations in force under it), national policy statements, national planning standards, and water conservation orders:

(g) the monitoring of the relationship between the functions, powers, and duties of central government and local government under this Part:

(ga) the monitoring and investigation, in such manner as the Minister thinks fit, of any matter of environmental significance:

(h) the consideration and investigation of the use of economic instruments (including charges, levies, other fiscal measures, and incentives) to achieve the purpose of this Act:

(i) any other functions specified in this Act.

Section 24(b): amended, on 10 August 2005, by section 6(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 24(ba): inserted, on 19 April 2017, by section 10(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 24(c): replaced, on 1 October 2009, by section 22 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 24(f): amended, on 19 April 2017, by section 10(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 24(g): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 24(ga): inserted, on 7 July 1993, by section 17 of the Resource Management Amendment Act 1993 (1993 No 65).

### 24A Power of Minister for the Environment to investigate and make recommendations

The Minister for the Environment may—

(a) investigate the exercise or performance by a local authority of any of its functions, powers, or duties under this Act or regulations under this Act; and

(b) make recommendations to the local authority on its exercise or performance of those functions, powers, or duties; and

(c) investigate the failure or omission by a local authority to exercise or perform any of its functions, powers, or duties under this Act or regulations under this Act; and

(d) make recommendations to the local authority on its failure or omission to exercise or perform those functions, powers, or duties; and

(e) take action under section 25 or section 25A if the local authority's failure or omission to act on a recommendation gives the Minister grounds to take action under one or both of those sections.

Section 24A: inserted, on 10 August 2005, by section 7 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 24A(a): amended, on 1 October 2009, by section 23 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 24A(c): amended, on 1 October 2009, by section 23 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 25 Residual powers of Minister for the Environment

(1) Where any local authority is not exercising or performing any of its functions, powers, or duties under this Act to the extent that the Minister for the Environment considers necessary to achieve the purpose of this Act, the Minister may appoint, on such terms and conditions as the Minister thinks fit, 1 or more persons (including any officer of the public service) to exercise or perform all or any of those functions, powers, or duties in place of the local authority.

(2) The Minister shall not make an appointment under subsection (1) until—

(a) the local authority has been given written notice specifying the reasons why the Minister proposes to make the appointment; and

(b) the local authority has a reasonable opportunity to satisfy the Minister that it has not failed to exercise or perform any of its functions, powers, or duties to the extent necessary to achieve the purpose of this Act, and having not succeeded in so satisfying the Minister, has failed to take proper steps within a time specified in the notice (being not less than 20 working days after the date of the notice) to remedy the defaults complained of.

(3) Any person appointed under subsection (1) to exercise or perform the functions, powers, or duties of a local authority under this Act may do so as if the person were the local authority, and the provisions of this Act shall apply accordingly.

(4) All costs, charges, and expenses incurred by the Minister for the purposes of this section, or by a person appointed by the Minister under this section in exercising or performing functions, powers, or duties of a local authority, shall be recoverable from the local authority as a debt due to the Crown or may be deducted from any money payable to the local authority by the Crown.

### 25A Minister may direct preparation of plan, change, or variation

(1) The Minister for the Environment—

(a) may direct a regional council—

(i) to prepare a regional plan that addresses a resource management issue relating to a function in section 30; or

(ii) to prepare a change to its regional plan that addresses the issue; or

(iii) to prepare a variation to its proposed regional plan that addresses the issue; and

(b) may direct the council, in preparing the plan, change, or variation, to deal with the whole or a specified part of the council's region; and

(c) must, in giving a direction, specify a reasonable period within which the plan, change, or variation must be notified.

(2) The Minister—

(a) may direct a territorial authority—

(i) to prepare a change to its district plan that addresses a resource management issue relating to a function in section 31; or

(ii) to prepare a variation to its proposed district plan that addresses the issue; and

(b) must, in giving a direction, specify a reasonable period within which the change or variation must be notified.

Section 25A: inserted, on 10 August 2005, by section 8 of the Resource Management Amendment Act 2005 (2005 No 87).

### 25B Ministers may direct commencement of review

(1) The Minister may direct a regional council to commence a review of the whole or any part of its regional plan (except its regional coastal plan) and, if he or she does so, must specify a reasonable period within which the review must commence.

(2) The Minister of Conservation may direct a regional council to commence a review of the whole or any part of its regional coastal plan and, if he or she

does so, must specify a reasonable period within which the review must commence.

(3) The Minister may direct a territorial authority to commence a review of the whole or any part of its district plan and, if he or she does so, must specify a reasonable period within which the review must commence.

(4) For the purposes of subsections (1) to (3), section 79(5) to (9) apply to the review with any necessary modification.

Section 25B: inserted, on 1 October 2009, by section 24 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 26 Minister may make grants and loans

(1) The Minister for the Environment may make grants and loans on such conditions as he or she thinks fit to any person to assist in achieving the purpose of this Act.

(2) All money spent or advanced by the Minister under this section shall be paid out of money appropriated by Parliament for the purpose.

(3) All money received by the Minister under this Act shall be paid into a Crown Bank Account or such other account as may be approved by the Minister of Finance.

Section 26(3): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

### 27 Minister may require local authorities to supply information

(1) The Minister for the Environment may require the bodies described in subsection (2) to supply the information described in subsection (3).

(2) The bodies are—

(a) a local authority; and

(b) a network utility operator approved as a requiring authority; and

(c) a body corporate approved as a heritage protection authority.

(3) The information is information to which all the following apply:

(a) it is about the body's exercise of any of its functions, powers, or duties under this Act; and

(b) it is held by the body; and

(c) it may reasonably be required by the Minister.

(4) The Minister must require the information in a notice that—

(a) is in writing; and

(b) is dated.

(5) The body—

(a) must supply the Minister with the information within—

(i) 20 working days of the date of the notice; or

(ii) a longer time set by the Minister; and

(b) must not charge the Minister for the supply.

Section 27: replaced, on 10 August 2005, by section 9 of the Resource Management Amendment Act 2005 (2005 No 87).

### 28 Functions of Minister of Conservation

The Minister of Conservation shall have the following functions under this Act:

(a) the preparation and recommendation of New Zealand coastal policy statements under section 57:

(b) the approval of regional coastal plans in accordance with Schedule 1:

(c) *[Repealed]*

(d) the monitoring of the effect and implementation of New Zealand coastal policy statements and coastal permits for restricted coastal activities:

(e) *[Repealed]*

(f) any other functions specified in this Act.

Section 28(c): repealed, on 1 October 2009, by section 25(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 28(d): replaced, on 7 July 1993, by section 19(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 28(d): amended, on 1 October 2009, by section 25(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 28(e): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 28(f): inserted, on 1 October 2011, by section 7 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 28A Regional council must supply information to Minister of Conservation

(1) The Minister of Conservation may, if it is reasonable to do so, require a regional council to supply information about the regional council's monitoring of—

(a) a coastal permit relating to its region; or

(b) its regional coastal plan; or

(c) the exercise of a protected customary right in its region.

(2) The Minister of Conservation must request the required information by giving a written and dated notice to the regional council.

(3) The council must supply the information to the Minister of Conservation within—

(a) 20 working days of the date of the notice; or

(b) a longer time set by the Minister of Conservation.

(4) The council must not charge for supplying the information.

Section 28A: replaced, on 1 October 2009, by section 26 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 28A(1)(c): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 28B Functions of Minister of Aquaculture

The Minister of Aquaculture has the following functions under this Act:

(a) suspending the receipt of applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area under section 165ZD:

(b) making a direction to process and hear together applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area under section 165ZFA:

(c) recommending the making of regulations under sections 360A to 360C that amend regional coastal plans in relation to aquaculture activities in the coastal marine area.

Section 28B: inserted, on 1 October 2011, by section 8 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 29 Delegation of functions by Ministers

(1) Any Minister of the Crown may, either generally or particularly, delegate to the chief executive of that Minister's department in accordance with clause 5 of Schedule 6 of the Public Service Act 2020, any of that Minister's functions, powers, or duties under this Act other than the following:

(a) certifying any work or activity under section 4:

(b) appointing persons to exercise powers or perform functions or duties in place of a local authority under section 25:

(c) recommending the making of a national environmental standard under section 44:

(d) recommending the approval, change, or revocation of a national policy statement or a New Zealand coastal policy statement under section 52, 53, or 57:

(da) approving, changing, replacing, or revoking a national planning standard under section 58E or 58H, other than to make changes that have no more than a minor effect, correct obvious errors or omissions, or make similar technical changes:

(e) the following functions, powers, and duties under Part 6AA:

(i) deciding whether to make a direction under section 142(2) or 147(1) in relation to a matter that is or is part of a proposal of national significance:

(ii) appointing a board of inquiry under section 149J to consider a matter for which a direction has been made under section 142(2) or 147(1)(a):

(iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under section 142(2) or 147(1)(a)

(iv) deciding whether to intervene in a matter under section 149ZA:

(v) deciding under section 149ZC whether to notify an application or notice of requirement to which section 149ZB applies:

(f) recommending the making of an Order in Council under section 150C:

(g) recommending the making of an Order in Council under section 165O:

(ga) *[Repealed]*

(h) approving an applicant as a requiring authority under section 167:

(i) approving an applicant as a heritage protection authority under section 188:

(j) recommending the issue or amendment of a water conservation order under section 214 or 216:

(k) recommending the appointment of an Environment Judge or alternate Environment Judge under section 250:

(l) recommending the appointment of the Chief Environment Court Judge under section 251:

(m) recommending the appointment of an Environment Commissioner or Deputy Environment Commissioner under section 254:

(n) recommending the making of regulations under section 360:

(o) approving a regional coastal plan under clause 19 of Schedule 1:

(p) *[Repealed]*

(q) this power of delegation.

(2) A chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, power, or duty delegated to him or her by a Minister under clause 5 of that schedule.

(3) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020, as the case may be.

(4) The Minister may, in writing, delegate to the Environmental Protection Authority his or her functions, powers, and duties under section 24(f), Part 6AA, and sections 357B to 357D except the following:

(a) deciding whether to make a direction under section 142(2) or 147(1) in relation to a matter that is or is part of a proposal of national significance:

(b) appointing a board of inquiry under section 149J to consider a matter for which a direction has been made under section 142(2) or 147(1)(a):

(c) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under section 142(2) or 147(1)(a):

(d) deciding whether to intervene in a matter under section 149ZA:

(e) deciding under section 149ZC whether to notify an application or notice of requirement to which section 149ZB applies.

(4A) The Minister of Conservation may, in writing, delegate to the Environmental Protection Authority his or her functions, powers, and duties—

(a) under section 149ZD(4); and

(b) under sections 357B(b), 357C, and 357D, in relation to a delegation to which paragraph (a) applies.

(4B) The Environmental Protection Authority may, in writing and with the consent of the Minister of Conservation, delegate any of the functions, powers, and duties that the Minister has delegated to the Authority—

(a) under section 149ZD(4); and

(b) under sections 357B(b), 357C, and 357D, in relation to a delegation to which paragraph (a) applies.

(5) A delegation under subsection (4) or (4A)—

(a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the EPA; and

(b) does not prevent the Minister from performing the functions or duties, or exercising the powers, concerned.

(6) A delegation under subsection (4B)—

(a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the delegate; and

(b) does not prevent the Environmental Protection Authority from performing the functions or duties, or exercising the powers, concerned.

Section 29(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 29(1)(a): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(b): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(c): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(d): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(da): inserted, on 19 April 2017, by section 11(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 29(1)(e): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(f): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(g): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(ga): repealed, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(h): replaced, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(i): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(j): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(k): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(l): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(l): amended, on 1 July 2020, by section 8 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 29(1)(m): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(n): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(o): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(1)(p): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 29(1)(q): inserted, on 1 October 2009, by section 27(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 29(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 29(4): inserted, on 1 October 2009, by section 27(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(4): amended, on 1 July 2011, by section 5 of the Resource Management Amendment Act 2011 (2011 No 19).

Section 29(4A): inserted, on 4 September 2013, by section 5(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 29(4B): inserted, on 19 April 2017, by section 11(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 29(5): inserted, on 1 October 2009, by section 27(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 29(5): amended, on 4 September 2013, by section 5(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 29(6): inserted, on 19 April 2017, by section 11(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 29A Restriction on Ministerial direction

The Minister may not give a direction under section 103 of the Crown Entities Act 2004 that relates to the exercise of the EPA's functions under section 42C(c).

Section 29A: inserted, on 1 July 2011, by section 6 of the Resource Management Amendment Act 2011 (2011 No 19).

*Functions, powers, and duties of local authorities*

### 30 Functions of regional councils under this Act

(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(b) the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:

(ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region:

(c) the control of the use of land for the purpose of—

(i) soil conservation:

(ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii) the maintenance of the quantity of water in water bodies and coastal water:

(iiia) the maintenance and enhancement of ecosystems in water bodies and coastal water:

(iv) the avoidance or mitigation of natural hazards:

(v) *[Repealed]*

(ca) the investigation of land for the purposes of identifying and monitoring contaminated land:

(d) in respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—

(i) land and associated natural and physical resources:

(ii) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:

(iii) the taking, use, damming, and diversion of water:

(iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:

(iva) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:

(v) any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards:

(vi) the emission of noise and the mitigation of the effects of noise:

(vii) activities in relation to the surface of water:

(e) the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—

(i) the setting of any maximum or minimum levels or flows of water:

(ii) the control of the range, or rate of change, of levels or flows of water:

(iii) the control of the taking or use of geothermal energy:

(f) the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:

(fa) if appropriate, the establishment of rules in a regional plan to allocate any of the following:

(i) the taking or use of water (other than open coastal water):

(ii) the taking or use of heat or energy from water (other than open coastal water):

(iii) the taking or use of heat or energy from the material surrounding geothermal water:

(iv) the capacity of air or water to assimilate a discharge of a contaminant:

(fb) if appropriate, and in conjunction with the Minister of Conservation,—

(i) the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:

(ii) the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A:

(g) in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—

(i) soil conservation:

(ii) the maintenance and enhancement of the quality of water in that water body:

(iii) the maintenance of the quantity of water in that water body:

(iv) the avoidance or mitigation of natural hazards:

(ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:

(gb) the strategic integration of infrastructure with land use through objectives, policies, and methods:

(h) any other functions specified in this Act.

(2) A regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) to control the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996.

(3) However, a regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control aquaculture activities for the purpose of avoiding, remedying, or mitigating the effects of aquaculture activities on fishing and fisheries resources.

(4) A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:

(a) the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and

(b) nothing in paragraph (a) affects section 68(7); and

(c) the rule may allocate the resource in anticipation of the expiry of existing consents; and

(d) in allocating the resource in anticipation of the expiry of existing consents, the rule may—

(i) allocate all of the resource used for an activity to the same type of activity; or

(ii) allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and

(e) the rule may allocate the resource among competing types of activities; and

(f) the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by section 14(3)(b) to (e).

(5) In this section and section 31,—

**business land** means land that is zoned for business use in an urban environment, including, for example, land in the following zones:

(a) business and business parks:

(b) centres, to the extent that this zone allows business uses:

(c) commercial:

(d) industrial:

(e) mixed use, to the extent that this zone allows business uses:

(f) retail

**development capacity**, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—

(a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and

(b) the capacity required to meet—

(i) the expected short and medium term requirements; and

(ii) the long term requirements; and

(c) the provision of adequate development infrastructure to support the development of the land

**development infrastructure** means the network infrastructure for—

(a) water supply, wastewater, and storm water; and

(b) to the extent that it is controlled by local authorities, land transport as defined in section 5(1) of the Land Transport Management Act 2003.

Section 30 heading: amended, on 20 August 1998, by section 9 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 30(1)(ba): inserted, on 19 April 2017, by section 12(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(c)(iiia): inserted, on 1 August 2003, by section 9(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 30(1)(c)(v): repealed, on 19 April 2017, by section 12(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(ca): inserted, on 10 August 2005, by section 11(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(d)(ii): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 30(1)(d)(iva): inserted, on 20 August 1998, by section 9 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 30(1)(d)(v): amended, on 19 April 2017, by section 12(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(fa): inserted, on 10 August 2005, by section 11(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(fb): inserted, on 10 August 2005, by section 11(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(ga): inserted, on 1 August 2003, by section 9(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 30(1)(gb): inserted, on 10 August 2005, by section 11(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(2): replaced, on 1 October 2011, by section 9 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 30(3): replaced, on 1 October 2011, by section 9 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 30(4): inserted, on 10 August 2005, by section 11(4) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(5): inserted, on 19 April 2017, by section 12(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 31 Functions of territorial authorities under this Act

(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:

(aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:

(b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—

(i) the avoidance or mitigation of natural hazards; and

(ii) *[Repealed]*

(iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:

(iii) the maintenance of indigenous biological diversity:

(c) *[Repealed]*

(d) the control of the emission of noise and the mitigation of the effects of noise:

(e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:

(f) any other functions specified in this Act.

(2) The methods used to carry out any functions under subsection (1) may include the control of subdivision.

Section 31 heading: amended, on 7 July 1993, by section 22 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 31(1)(aa): inserted, on 19 April 2017, by section 13(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 31(1)(b): replaced, on 1 August 2003, by section 10(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 31(1)(b)(ii): repealed, on 19 April 2017, by section 13(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 31(1)(b)(iia): inserted, on 10 August 2005, by section 12 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 31(1)(c): repealed, on 1 August 2003, by section 10(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 31(2): inserted, on 1 August 2003, by section 10(2) of the Resource Management Amendment Act 2003 (2003 No 23).

### 31A Minister of Conservation to have certain powers of local authority

(1) The Minister of Conservation—

(a) has, in respect of the coastal marine areas of the Kermadec Islands, the Snares Islands, the Bounty Islands, the Antipodes Islands, the Auckland Islands, Campbell Island, and the islands adjacent to Campbell Island, the responsibilities, duties, and powers that a regional council would have under section 30(1)(d) if those coastal marine areas were within the region of that regional council; and

(b) may exercise, in respect of the islands specified in paragraph (a),—

(i) the responsibilities, duties, and powers that a regional council would have under this Act if those islands were within the region of that regional council; and

(ii) the responsibilities, duties, and powers that a territorial authority would have under this Act if those islands were within the district of that territorial authority.

(2) The responsibilities, duties, and powers conferred on the Minister of Conservation by subsection (1)(b) are in addition to the powers conferred on that Minister by subsection (1)(a).

(3) The responsibilities, duties, and powers conferred on the Minister of Conservation by this section are in addition to the responsibilities, duties, and powers conferred on that Minister by this Act.

Section 31A: inserted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 31A(1)(b)(i): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 32 Requirements for preparing and publishing evaluation reports

(1) An evaluation report required under this Act must—

(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

(2) An assessment under subsection (1)(b)(ii) must—

(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

(3) If the proposal (an **amending proposal**) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—

(a) the provisions and objectives of the amending proposal; and

(b) the objectives of the existing proposal to the extent that those objectives—

(i) are relevant to the objectives of the amending proposal; and

(ii) would remain if the amending proposal were to take effect.

(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—

(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and

(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.

(5) The person who must have particular regard to the evaluation report must make the report available for public inspection—

(a) as soon as practicable after the proposal is made (in the case of a standard, regulation, national policy statement, or New Zealand coastal policy statement); or

(b) at the same time as the proposal is notified.

(6) In this section,—

**objectives** means,—

(a) for a proposal that contains or states objectives, those objectives:

(b) for all other proposals, the purpose of the proposal

**proposal** means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act

**provisions** means,—

(a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:

(b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

Section 32: replaced, on 3 December 2013, for all purposes, by section 70 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32(3): amended, on 19 April 2017, by section 14(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(4): amended, on 19 April 2017, by section 14(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(4A): inserted, on 19 April 2017, by section 14(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(5)(a): amended, on 24 October 2019, by section 125 of the Statutes Amendment Act 2019 (2019 No 56).

Section 32(5)(b): amended, on 19 April 2017, by section 14(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(6) **proposal**: amended, on 19 April 2017, by section 14(5) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, **proposal** means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

Section 32AA: inserted, on 3 December 2013, for all purposes, by section 70 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32AA(1)(d)(i): amended, on 19 April 2017, by section 15(1)(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32AA(1)(d)(i): amended, on 19 April 2017, by section 15(1)(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32AA(3): amended, on 19 April 2017, by section 15(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 32A Failure to carry out evaluation

(1) A challenge to an objective, policy, rule, or other method on the ground that an evaluation report required under this Act has not been prepared or regarded, a further evaluation required under this Act has not been undertaken or regarded, or section 32 or 32AA has not been complied with may be made only in a submission under section 49, 149E, 149F, or 149O or under Schedule 1.

(2) Subsection (1) does not prevent a person who is hearing a submission or an appeal on a proposal from having regard to the matters stated in section 32.

(3) In this section, **proposal** means a proposed statement, national planning standard, plan, or change for which—

(a) an evaluation report must be prepared under this Act; or

(b) a further evaluation must be undertaken under this Act.

Section 32A: inserted, on 1 August 2003, by section 11 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 32A(1): amended, on 3 December 2013, for all purposes, by section 71(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32A(1): amended, on 4 September 2013, by section 6 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32A(2): replaced, on 3 December 2013, for all purposes, by section 71(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32A(3): inserted, on 3 December 2013, for all purposes, by section 71(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32A(3): amended, on 19 April 2017, by section 16 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 33 Transfer of powers

(1) A local authority may transfer any 1 or more of its functions, powers, or duties under this Act, except this power of transfer, to another public authority in accordance with this section.

(2) For the purposes of this section, **public authority** includes—

(a) a local authority; and

(b) an iwi authority; and

(c) *[Repealed]*

(d) a government department; and

(e) a statutory authority; and

(f) a joint committee set up for the purposes of section 80; and

(g) a local board.

(3) *[Repealed]*

(4) A local authority shall not transfer any of its functions, powers, or duties under this section unless—

(a) it has used the special consultative procedure set out in section 83 of the Local Government Act 2002; and

(b) before using that special consultative procedure it serves notice on the Minister of its proposal to transfer the function, power, or duty; and

(c) both authorities agree that the transfer is desirable on all of the following grounds:

(i) the authority to which the transfer is made represents the appropriate community of interest relating to the exercise or performance of the function, power, or duty:

(ii) efficiency:

(iii) technical or special capability or expertise.

(5) *[Repealed]*

(6) A transfer of functions, powers, or duties under this section shall be made by agreement between the authorities concerned and on such terms and conditions as are agreed.

(7) A public authority to which any function, power, or duty is transferred under this section may accept such transfer, unless expressly forbidden to do so by the terms of any Act by or under which it is constituted; and upon any such transfer, its functions, powers, and duties shall be deemed to be extended in such manner as may be necessary to enable it to undertake, exercise, and perform the function, power, or duty.

(8) A local authority which has transferred any function, power, or duty under this section may change or revoke the transfer at any time by notice to the transferee.

(9) A public authority to which any function, power, or duty has been transferred under this section, may relinquish the transfer in accordance with the transfer agreement.

Section 33(1): replaced, on 1 August 2003, by section 12(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 33(2): replaced, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 33(2)(c): repealed, on 1 October 2011, by section 11 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 33(2)(g): amended, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 33(3): repealed, on 1 August 2003, by section 12(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 33(4)(a): replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 33(5): repealed, on 1 August 2003, by section 12(2) of the Resource Management Amendment Act 2003 (2003 No 23).

### 34 Delegation of functions, etc, by local authorities

(1) A local authority may delegate to any committee of the local authority established in accordance with the Local Government Act 2002 any of its functions, powers, or duties under this Act.

(2) A territorial authority may delegate to any community board established in accordance with the Local Government Act 2002 any of its functions, powers, or duties under this Act in respect of any matter of significance to that community, other than the approval of a plan or any change to a plan.

(3) Subsection (2) does not prevent a local authority delegating to a community board power to do anything before a final decision on the approval of a plan or any change to a plan.

(3A) A unitary authority may delegate to any local board any of its functions, powers, or duties under this Act in respect of any matter of local significance to that board, other than the approval of a plan or any change to a plan.

(3B) Subsection (3A) does not prevent a unitary authority delegating to a local board power to do anything before a final decision on the approval of a plan or any change to a plan.

(4) *[Repealed]*

(5) *[Repealed]*

(6) *[Repealed]*

(7) Any delegation under this section may be made on such terms and conditions as the local authority thinks fit, and may be revoked at any time by notice to the delegate.

(8) Except as provided in the instrument of delegation, every person to whom any function, power, or duty has been delegated under this section may, without confirmation by the local authority, exercise or perform the function, power, or duty in like manner and with the same effect as the local authority could itself have exercised or performed it.

(9) Every person authorised to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of proof to the contrary.

(10) A delegation under this section does not affect the performance or exercise of any function, power, or duty by the local authority.

(11) In subsections (3A) and (3B), **Auckland Council** and **local board** have the meanings given in section 4(1) of the Local Government (Auckland Council) Act 2009.

Section 34(1): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 34(2): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 34(3): replaced, on 1 August 2003, by section 13 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 34(3A): inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 34(3A): amended, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 34(3B): inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 34(3B): amended, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 34(4): repealed, on 1 August 2003, by section 13 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 34(5): repealed, on 1 August 2003, by section 13 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 34(6): repealed, on 1 August 2003, by section 13 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 34(11): inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### 34A Delegation of powers and functions to employees and other persons

(1) A local authority may delegate to an employee, or hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers, or duties under this Act except the following:

(a) the approval of a proposed policy statement or plan under clause 17 of Schedule 1:

(b) this power of delegation.

(1A) If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under Part 1 or 5 of Schedule 1,—

(a) the local authority must consult tangata whenua through relevant iwi authorities on whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū; and

(b) if the local authority considers it appropriate, it must appoint at least 1 commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.

(2) A local authority may delegate to any other person any functions, powers, or duties under this Act except the following:

(a) the powers in subsection (1)(a) and (b):

(b) the decision on an application for a resource consent:

(c) the making of a recommendation on a requirement for a designation.

(3) *[Repealed]*

(4) Section 34(7), (8), (9), and (10) applies to a delegation under this section.

(5) Subsection (1) or subsection (2) does not prevent a local authority delegating to any person the power to do anything before a final decision on a matter referred to in those subsections.

Section 34A: inserted, on 1 August 2003, by section 14 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 34A(1)(a): replaced, on 1 October 2009, by section 28 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 34A(1A): inserted, on 19 April 2017, by section 17 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 34A(3): repealed, on 10 August 2005, by section 14 of the Resource Management Amendment Act 2005 (2005 No 87).

### 35 Duty to gather information, monitor, and keep records

(1) Every local authority shall gather such information, and undertake or commission such research, as is necessary to carry out effectively its functions under this Act or regulations under this Act.

(2) Every local authority shall monitor—

(a) the state of the whole or any part of the environment of its region or district—

(i) to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and

(ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations; and

(b) the efficiency and effectiveness of policies, rules, or other methods in its policy statement or its plan; and

(c) the exercise of any functions, powers, or duties delegated or transferred by it; and

(ca) the efficiency and effectiveness of processes used by the local authority in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness, cost, and the overall satisfaction of those persons or bodies in respect of whom the powers, functions, or duties are exercised or performed; and

(d) the exercise of the resource consents that have effect in its region or district, as the case may be; and

(e) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011—

and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.

(2AA) Monitoring required by subsection (2) must be undertaken in accordance with any regulations.

(2A) Every local authority must, at intervals of not more than 5 years, compile and make available to the public a review of the results of its monitoring under subsection (2)(b).

(3) Every local authority shall keep reasonably available at its principal office, information which is relevant to the administration of policy statements and plans, the monitoring of resource consents, and current issues relating to the environment of the area, to enable the public—

(a) to be better informed of their duties and of the functions, powers, and duties of the local authority; and

(b) to participate effectively under this Act.

(4) Every local authority shall keep reasonably available at each of the offices in its region or district such of the information referred to in subsection (3) as relates to that part of the region or district.

(5) The information to be kept by a local authority under subsection (3) shall include—

(a) copies of its operative and any proposed policy statements and plans including all requirements for designations and heritage orders, and all operative and proposed changes to those policy statements and plans; and

(aa) copies of all material incorporated by reference in any plan or proposed plan under Part 3 of Schedule 1; and

(b) all its decisions relating to submissions on any proposed policy statements and plans which have not yet become operative; and

(c) in the case of a territorial authority, copies of every operative and proposed regional policy statement and regional plan for the region of which its district forms part; and

(d) in the case of a regional council, copies of every operative and proposed district plan for every territorial authority in its region; and

(e) in the case of a regional council, a copy of every Order in Council served on it under section 154(a); and

(f) copies of any national environmental standard or national policy statement or New Zealand coastal policy statement; and

(g) records of all applications for resource consents received by it; and

(ga) records of all decisions under any of sections 37, 87BA, 87BB, 87E, 95 to 95G, 198C, and 198H; and

(gb) records of all resource consents granted within the local authority's region or district; and

(gc) records of the transfer of any resource consent; and

(h) *[Repealed]*

(i) a summary of all written complaints received by it during the preceding 5 years concerning alleged breaches of the Act or a plan, and information on how it dealt with each such complaint; and

(j) records of natural hazards to the extent that the local authority considers appropriate for the effective discharge of its functions; and

(ja) in the case of a territorial authority, the location and area of all esplanade reserves, esplanade strips, and access strips in the district; and

(jb) in the case of a regional council, records of every protected customary rights order or agreement relating to a part of the common marine and coastal area within its region; and

(k) any other information gathered under subsections (1) and (2).

(6) In subsections (2)(e) and (5)(jb), **regional council** includes the Chatham Islands Council.

Section 35(1): amended, on 1 October 2009, by section 29(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35(2)(a): replaced, on 4 September 2013, by section 7(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 35(2)(b): replaced, on 1 August 2003, by section 15(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 35(2)(ca): inserted, on 19 April 2017, by section 18(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 35(2)(d): amended, on 17 January 2005, by section 10(1) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 35(2)(e): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 35(2AA): inserted, on 19 April 2017, by section 18(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 35(2A): inserted, on 1 August 2003, by section 15(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 35(5)(aa): inserted, on 10 August 2005, by section 15 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 35(5)(f): amended, on 1 October 2009, by section 29(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35(5)(g): replaced, on 1 August 2003, by section 15(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 35(5)(ga): inserted, on 1 August 2003, by section 15(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 35(5)(ga): amended, on 18 October 2017, by section 128 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 35(5)(ga): amended, on 4 September 2013, by section 7(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 35(5)(ga): amended, on 1 October 2009, by section 29(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35(5)(gb): inserted, on 1 August 2003, by section 15(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 35(5)(gc): inserted, on 1 August 2003, by section 15(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 35(5)(h): repealed, on 1 October 2009, by section 29(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35(5)(ja): inserted, on 7 July 1993, by section 24 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 35(5)(jb): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 35(6): inserted, on 17 January 2005, by section 10(3) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

### 35A Duty to keep records about iwi and hapu

(1) For the purposes of this Act or regulations under this Act, a local authority must keep and maintain, for each iwi and hapu within its region or district, a record of—

(a) the contact details of each iwi authority within the region or district and any groups within the region or district that represent hapu for the purposes of this Act or regulations under this Act; and

(b) the planning documents that are recognised by each iwi authority and lodged with the local authority; and

(c) any area of the region or district over which 1 or more iwi or hapu exercise kaitiakitanga; and

(d) any Mana Whakahono a Rohe entered into under section 58O.

(2) For the purposes of subsection (1)(a) and (c),—

(a) the Crown must provide to each local authority information on—

(i) the iwi authorities within the region or district of that local authority and the areas over which 1 or more iwi exercise kaitiakitanga within that region or district; and

(ii) any groups that represent hapu for the purposes of this Act or regulations under this Act within the region or district of that local authority and the areas over which 1 or more hapu exercise kaitiakitanga within that region or district; and

(iii) the matters provided for in subparagraphs (i) and (ii) that the local authority has advised to the Crown; and

(b) the local authority must include in its records all the information provided to it by the Crown under paragraph (a).

(3) In addition to any information provided by a local authority under subsection (2)(a)(iii), the local authority may also keep a record of information relevant to its region or district, as the case may be,—

(a) on iwi, obtained directly from the relevant iwi authority; and

(b) on hapu, obtained directly from the relevant group representing the hapu for the purposes of this Act or regulations under this Act.

(4) In this section, the requirement under subsection (1) to keep and maintain a record does not apply in relation to hapu unless a hapu, through the group that represents it for the purposes of this Act or regulations under this Act, requests the Crown or the relevant local authority (or both) to include the required information for that hapu in the record.

(5) If information recorded under subsection (1) conflicts with a provision of another enactment, advice given under the other enactment, or a determination made under the other enactment, as the case may be,—

(a) the provision of the other enactment prevails; or

(b) the advice given under the other enactment prevails; or

(c) the determination made under the other enactment prevails.

(6) Information kept and maintained by a local authority under this section must not be used by the local authority except for the purposes of this Act or regulations under this Act.

(7) Information required to be provided under this section must be provided in accordance with any prescribed requirements.

Section 35A: inserted, on 10 August 2005, by section 16 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 35A(1): amended, on 1 October 2009, by section 30 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35A(1)(a): amended, on 1 October 2009, by section 30 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35A(1)(c): amended, on 19 April 2017, by section 19(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 35A(1)(d): inserted, on 19 April 2017, by section 19(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 35A(2)(a)(ii): amended, on 1 October 2009, by section 30 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35A(3)(b): amended, on 1 October 2009, by section 30 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35A(4): amended, on 1 October 2009, by section 30 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35A(6): amended, on 1 October 2009, by section 30 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 35A(7): inserted, on 4 September 2013, by section 8 of the Resource Management Amendment Act 2013 (2013 No 63).

### 36 Administrative charges

(1) A local authority may from time to time fix charges of all or any of the following kinds:

(a) charges payable by applicants for the preparation or change of a policy statement or plan, for the carrying out by the local authority of its functions in relation to such applications:

(aa) charges payable by an applicant who makes a request under section 100A in relation to an application for a resource consent, even if 1 or more submitters also make a request, for the cost of the application being heard and decided in accordance with the request:

(ab) charges payable if 1 or more submitters make a request under section 100A in relation to an application for a resource consent, but the applicant does not also make a request, as follows:

(i) charges payable by the applicant for the amount that the local authority estimates it would cost for the application to be heard and decided if the request had not been made; and

(ii) charges payable by the submitters who made a request for equal shares of any amount by which the cost of the application being heard and decided in accordance with the request exceeds the amount payable by the applicant under subparagraph (i):

(ac) charges payable by a requiring authority or heritage protection authority who makes a request under section 100A in relation to a notice of requirement, even if 1 or more submitters also make a request, for the cost of the requirement being heard and decided or recommended on in accordance with the request:

(ad) charges payable if 1 or more submitters make a request under section 100A in relation to a notice of requirement, but the requiring authority or heritage protection authority does not also make a request, as follows:

(i) charges payable by the requiring authority or heritage protection authority for the amount that the local authority estimates it would cost for the requirement to be heard and decided or recommended on if the request had not been made; and

(ii) charges payable by the submitters who made a request for equal shares of any amount by which the cost of the requirement being heard and decided or recommended on in accordance with the request exceeds the amount payable by the authority under subparagraph (i):

(ae) charges payable by persons proposing to undertake an activity, for the carrying out by the local authority of its functions in relation to issuing a notice under section 87BA or 87BB stating whether the activity is a permitted activity:

(af) charges payable by a person making an objection under section 357A(1)(f) or (g), if the person requests under section 357AB that the objection be considered by a hearings commissioner, for the cost of the objection being considered and decided in accordance with the request:

(b) charges payable by applicants for resource consents, for the carrying out by the local authority of any 1 or more of its functions in relation to the receiving, processing, and granting of resource consents (including certificates of compliance and existing use certificates):

(c) charges payable by holders of resource consents, for the carrying out by the local authority of its functions in relation to the administration, monitoring, and supervision of resource consents (including certificates of

compliance and existing use certificates), and for the carrying out of its resource management functions under section 35:

(ca) charges payable by persons seeking authorisations under Part 7A, for the carrying out by the local authority of its functions in relation to the allocation of authorisations (whether by tender or any other method), including its functions preliminary to the allocation of authorisations:

(cb) charges payable by holders of resource consents, for the carrying out by the local authority of any 1 or more of its functions in relation to reviewing consent conditions, if—

(i) the review is carried out at the request of the consent holder; or

(ii) the review is carried out under section 128(1)(a); or

(iii) the review is carried out under section 128(1)(c); or

(iv) the review is carried out under section 128(2):

(cc) charges payable by a person who carries out a permitted activity, for the monitoring of that activity, if the local authority is empowered to charge for the monitoring in accordance with section 43A(8):

(cd) charges payable by the farm operator of a farm that is required to have a certified freshwater farm plan, for the carrying out by the local authority of its functions under section 217I:

(d) charges payable by requiring authorities and heritage protection authorities, for the carrying out by the local authority of any 1 or more of its functions in relation to designations and heritage orders:

(e) charges for providing information in respect of plans and resource consents, payable by the person requesting the information:

(f) charges for supply of documents, payable by the person requesting the document:

(g) any kind of charge authorised for the purposes of this section by regulations.

(1A) To avoid doubt, charges may be fixed under subsection (1) to recover costs incurred by the consent authority for performing its functions under—

(a) sections 88 to 88F, 91(1) and (2), 91A to 92B, 95, 95A(2), and 96 to 103B in relation to an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977 that is made jointly with an application for a resource consent:

(b) Part 2 of Schedule 1 in relation to an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977 that is made jointly with a request for a change to a district plan or regional plan.

(2) Charges fixed under this section must be either specific amounts or determined by reference to scales of charges or other formulae fixed by the local authority.

(3) Charges may be fixed under this section only—

(a) in the manner set out in section 150 of the Local Government Act 2002; and

(b) after using the special consultative procedure set out in section 83 of the Local Government Act 2002; and

(c) in accordance with section 36AAA.

(3A) *[Repealed]*

(4) A local authority must fix a charge under this section if required to do so by regulations made under section 360F.

*Additional charges*

(5) Except where regulations are made under section 360F, if a charge fixed under this section is, in any particular case, inadequate to enable a local authority to recover its actual and reasonable costs in respect of the matter concerned, the local authority may require the person who is liable to pay the charge to also pay an additional charge to the local authority.

(6) A local authority must, on request by any person liable to pay a charge under this section, provide an estimate of any additional charge likely to be imposed under subsection (5).

(7) Sections 357B to 358 (which deal with rights of objection and appeal against certain decisions) apply in respect of the requirement by a local authority to pay an additional charge under subsection (5).

*Other matters*

(8) Section 36AAB sets out other matters relating to administrative charges.

Section 36(1): amended, on 19 April 2017, by section 20(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(1): amended, on 19 April 2017, by section 20(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(1)(aa): inserted, on 1 October 2009, by section 31(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(ab): inserted, on 1 October 2009, by section 31(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(ac): inserted, on 1 October 2009, by section 31(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(ad): inserted, on 1 October 2009, by section 31(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(ae): inserted, on 18 October 2017, by section 129 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(1)(af): inserted, on 18 October 2017, by section 129 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(1)(b): amended, on 1 October 2009, by section 31(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(b): amended, on 10 August 2005, by section 17(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 36(1)(c): amended, on 10 August 2005, by section 17(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 36(1)(ca): inserted, on 1 January 2005, by section 8 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 36(1)(cb): inserted, on 10 August 2005, by section 17(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 36(1)(cb): amended, on 1 October 2009, by section 31(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(cb)(iii): amended, on 1 October 2009, by section 31(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(cb)(iv): inserted, on 1 October 2009, by section 31(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1)(cc): inserted, on 19 April 2017, by section 20(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(1)(cd): inserted, on 1 July 2020, by section 9 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 36(1)(d): amended, on 1 October 2009, by section 31(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36(1A): inserted, on 19 April 2017, by section 188(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(2): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(3): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(3A): repealed, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(4): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(5): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(6): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(7): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 36(8): replaced, on 19 April 2017, by section 20(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 36AAA Criteria for fixing administrative charges

(1) When fixing charges under section 36, a local authority must have regard to the criteria set out in this section.

(2) The sole purpose of a charge is to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates.

(3) A particular person or particular persons should be required to pay a charge only—

(a) to the extent that the benefit of the local authority's actions to which the charge relates is obtained by those persons as distinct from the community of the local authority as a whole; or

(b) where the need for the local authority's actions to which the charge relates results from the actions of those persons; or

(c) in a case where the charge is in respect of the local authority's monitoring functions under section 35(2)(a) (which relates to monitoring the state of the whole or part of the environment),—

(i) to the extent that the monitoring relates to the likely effects on the environment of those persons' activities; or

(ii) to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole.

(4) The local authority may fix different charges for different costs it incurs in the performance of its various functions, powers, and duties under this Act—

(a) in relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or

(b) where any activity undertaken by the persons liable to pay any charge reduces the cost to the local authority of carrying out any of its functions, powers, and duties.

Section 36AAA: inserted, on 19 April 2017, by section 21 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 36AAB Other matters relating to administrative charges

(1) A local authority may, in any particular case and in its absolute discretion, remit the whole or any part of any charge of a kind referred to in section 36 that would otherwise be payable.

(2) Where a charge of a kind referred to in section 36 is payable to a local authority, the local authority need not perform the action to which the charge relates until the charge has been paid to it in full.

(3) However, subsection (2) does not apply to a charge to which section 36(1)(ab)(ii), (ad)(ii), or (cb)(iv) applies (relating to independent hearings commissioners requested by submitters or reviews required by a court order).

(4) A local authority must publish and maintain, on an Internet site to which the public has free access, an up-to-date list of charges fixed under section 36.

Section 36AAB: inserted, on 19 April 2017, by section 21 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 36AA Local authority policy on discounting administrative charges

(1) A local authority must provide a discount on an administrative charge imposed under section 36 as follows:

(a) a local authority that has not adopted a policy under subsection (3) must provide a discount if regulations under section 360(1)(hj) require the local authority to provide a discount:

(b) a local authority that has adopted a policy under subsection (3) must provide a discount under whichever of the policy and regulations under section 360(1)(hj) is more generous in the circumstances of the particular case.

(2) The Minister must recommend to the Governor-General within 9 months of the commencement of section 32 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 that regulations be made under section 360(1)(hj) and the Minister must, before making the recommendation, consult with local authorities about the proposed regulations.

(2A) The Minister must ensure that regulations made under section 360(1)(hj) remain in force, but this subsection does not prevent regulations made under section 360(1)(hj) (including the regulations made in compliance with subsection (2)) from being amended or from being revoked and replaced by another set of regulations made under section 360(1)(hj).

(3) A local authority may adopt, in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002, a policy in respect of discounting administrative charges imposed under section 36 of this Act in the circumstances where—

(a) an application for a resource consent or an application to change or cancel conditions under section 127 is not processed within the time frames set out in this Act; and

(b) the responsibility for the failure rests with the local authority.

(4) The policy must specify—

(a) the discount, or the method for determining the discount, that would be given for any application fees or charges paid or owing; and

(b) the procedure an applicant must follow to obtain the discount.

(5) *[Repealed]*

Section 36AA: inserted, on 1 October 2009, by section 32 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 36AA(1): replaced, on 1 October 2011, by section 12(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 36AA(2A): inserted, on 1 October 2011, by section 12(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 36AA(5): repealed, on 1 October 2011, by section 12(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

*Duties of local authorities and applicants*

Heading: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

### 36A No duty under this Act to consult about resource consent applications and notices of requirement

(1) The following apply to an applicant for a resource consent and the local authority:

(a) neither has a duty under this Act to consult any person about the application; and

(b) each must comply with a duty under any other enactment to consult any person about the application; and

(c) each may consult any person about the application.

(2) This section applies to a notice of requirement issued under any of sections 168, 168A, 189, and 189A by a requiring authority or a heritage protection authority, as if—

(a) the notice were an application for a resource consent; and

(b) the authority were an applicant.

Section 36A: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

*Powers and duties of local authorities and other public authorities*

Heading: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

### 36B Power to make joint management agreement

(1) A local authority that wants to make a joint management agreement must—

(a) notify the Minister that it wants to do so; and

(b) satisfy itself—

(i) that each public authority, iwi authority, and group that represents hapu for the purposes of this Act that, in each case, is a party to the joint management agreement—

(A) represents the relevant community of interest; and

(B) has the technical or special capability or expertise to perform or exercise the function, power, or duty jointly with the local authority; and

(ii) that a joint management agreement is an efficient method of performing or exercising the function, power, or duty; and

(c) include in the joint management agreement details of—

(i) the resources that will be required for the administration of the agreement; and

(ii) how the administrative costs of the joint management agreement will be met.

(2) A local authority that complies with subsection (1) may make a joint management agreement.

Section 36B: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

### 36C Local authority may act by itself under joint management agreement

(1) This section applies when a joint management agreement requires the parties to it to perform or exercise a specified function, power, or duty together.

(2) The local authority may perform or exercise the function, power, or duty by itself if a decision is required before the parties to the joint management agreement can perform or exercise the function, power, or duty and the joint management agreement does not provide a method for making a decision of that kind.

Section 36C: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

### 36D Effect of joint management agreement

A decision made under a joint management agreement has legal effect as a decision of the local authority.

Section 36D: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 36D: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 36E Termination of joint management agreement

Any party to a joint management agreement may terminate that agreement by giving the other parties 20 working days' notice.

Section 36E: inserted, on 10 August 2005, by section 18 of the Resource Management Amendment Act 2005 (2005 No 87).

*Waivers and extension of time limits*

### 37 Power of waiver and extension of time limits

(1) A consent authority or local authority may, in any particular case,—

(a) extend a time period specified in this Act or in regulations, whether or not the time period has expired; or

(b) waive a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.

(1A) However, a consent authority must not, under subsection (1), waive or extend a time period for the purpose of providing more time for a pre-request aquaculture agreement to be negotiated under section 186ZM of the Fisheries Act 1996.

(2) If a person is required to provide information under this Act, regulations, or a plan and the information is inaccurate or omitted, or a procedural requirement is omitted, the consent authority or local authority may—

(a) waive compliance with the requirement; or

(b) direct that the omission or inaccuracy be rectified on such terms as the consent authority or local authority thinks fit.

Section 37: replaced, on 1 August 2003, by section 17 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 37(1A): inserted, on 1 October 2011, by section 13 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 37A Requirements for waivers and extensions

(1) A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account—

(a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and

(b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and

(c) its duty under section 21 to avoid unreasonable delay.

(2) A time period may be extended under section 37 for—

(a) a time not exceeding twice the maximum time period specified in this Act; or

(b) a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.

(3) Instead of subsections (1) and (2), subsections (4) and (5) apply to an extension of a time limit imposed on a consent authority in respect of—

(a) an application for a resource consent; or

(b) an application to change or cancel a condition of a resource consent; or

(c) a review of a resource consent.

(4) A consent authority may extend a time period under section 37 only if—

(a) the time period as extended does not exceed twice the maximum time period specified in this Act; and

(b) either—

(i) special circumstances apply (including special circumstances existing by reason of the scale or complexity of the matter); or

(ii) the applicant agrees to the extension; and

(c) the authority has taken into account the matters specified in subsection (1).

(5) A consent authority may extend a time period under section 37 so that the extended period exceeds twice the maximum time period specified in the Act only if—

(a) the applicant agrees to the extension; and

(b) the authority has taken into account the matters specified in subsection (1).

(6) A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.

Section 37A: inserted, on 1 August 2003, by section 17 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 37A(3): replaced, on 1 October 2009, by section 33 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 37A(4): inserted, on 1 October 2009, by section 33 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 37A(5): inserted, on 1 October 2009, by section 33 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 37A(6): inserted, on 1 October 2009, by section 33 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 37B Persons to have powers of consent authority for purposes of sections 37 and 37A

The following bodies have the powers of a consent authority under sections 37 and 37A for the following matters:

(a) the Minister, while carrying out any of his or her functions under Part 6AA:

(b) a board of inquiry appointed under section 149J, while carrying out its functions under Part 6AA, except in respect of the time periods and requirements under section 149R:

(ba) the EPA, while carrying out its functions under Part 6AA, except in respect of the time periods and requirements under section 146(1):

(c) a special tribunal appointed under section 202, for all matters while carrying out its functions.

(d) *[Repealed]*

Section 37B: inserted, on 1 August 2003, by section 17 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 37B(a): replaced, on 1 October 2009, by section 34 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 37B(b): replaced, on 1 October 2009, by section 34 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 37B(ba): inserted, on 1 October 2009, by section 34 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 37B(d): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

*Enforcement officers*

### 38 Authorisation and responsibilities of enforcement officers

(1) A local authority may authorise—

(a) any of its officers; or

(b) any of the officers of any other local authority, or of the new Ministry, or the Department of Conservation, or Maritime New Zealand, subject to such terms and conditions as to payment of salary and expenses and as to appointment of his or her duties as may be agreed upon between the relevant authorities—

to carry out all or any of the functions and powers as an enforcement officer under this Act.

(2) A local authority may authorise any person who is—

(a) the holder of a licence as a property guard issued under section 34 of the Private Security Personnel and Private Investigators Act 2010; or

(b) employed by a person authorised under paragraph (a) and who is—

(i) the holder of a certificate of approval issued under section 40 of that Act; or

(ii) a person in respect of whom permission granted under section 37 of that Act is in force—

to exercise or carry out all or any of the functions and powers of an enforcement officer under sections 327 and 328 (which relate to excessive noise).

(3) The Minister of Conservation may authorise any officers of the Department of Conservation or of a local authority to exercise and carry out the functions and powers of an enforcement officer under this Act in relation to 1 or more of the following:

(a) compliance with a resource consent issued by that Minister under section 31A:

(b) *[Repealed]*

(c) *[Repealed]*

(4) Any authorisation under subsection (3) to an officer of a local authority is subject to such terms and conditions as to payment of salary and expenses and as to appointment of his or her duties as may be agreed between the Minister and the local authority.

(5) The local authority or Minister shall supply every enforcement officer authorised under this section with a warrant, and that warrant shall clearly state the functions and powers that the person concerned has been authorised to exercise and carry out under this Act.

(6) Every enforcement officer authorised under this section who exercises or purports to exercise any power conferred on him or her by this Act shall have with him or her, and shall produce if required to do so, his or her warrant and evidence of his or her identity.

(7) Every enforcement officer who holds a warrant issued under this section shall, on the termination of his or her appointment as such, surrender the warrant to the local authority or Minister, as the case may be.

Section 38(1)(b): amended, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Section 38(1)(b): amended, on 1 March 1998, pursuant to section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 38(1)(b): amended, on 17 December 1997, by section 9(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 38(2): amended, on 7 July 1993, by section 26 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 38(2)(a): replaced, on 1 April 2011, by section 121(1) of the Private Security Personnel and Private Investigators Act 2010 (2010 No 115).

Section 38(2)(b): replaced, on 17 December 1997, by section 9(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 38(3): amended, on 17 January 2005, by section 12(1) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 38(3)(a): replaced, on 1 October 2009, by section 35(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 38(3)(b): repealed, on 1 October 2009, by section 35(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 38(3)(c): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 38(5): amended, on 1 July 2020, by section 10(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 38(6): amended, on 1 July 2020, by section 10(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### *Powers and duties in relation to hearings*

### 39 Hearings to be public and without unnecessary formality

(1) Where a local authority, a consent authority, or a person given authority to conduct hearings under any of sections 33, 34, 34A, 117, 149J, 202, or 357C, holds a hearing in relation to—

(a) a proposed policy statement, a plan, a change, or a variation; or

(b) an application for a resource consent; or

(c) a review of a resource consent; or

(d) an application to change or cancel a condition of a resource consent; or

(e) a matter for which a direction has been made under section 142(2) or 147(1)(a); or

(f) a requirement for a designation or heritage order; or

(fa) a requirement to alter a designation or heritage order; or

(g) an application for a water conservation order,—

the authority shall hold the hearing in public (unless permitted to do otherwise by section 42 (which relates to the protection of sensitive information) or the Local Government Official Information and Meetings Act 1987), and shall establish a procedure that is appropriate and fair in the circumstances.

(2) In determining an appropriate procedure for the purposes of subsection (1), the authority shall—

(a) avoid unnecessary formality; and

(b) recognise tikanga Maori where appropriate, and receive evidence written or spoken in Maori and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 shall apply accordingly; and

(c) not permit any person other than the chairperson or other member of the hearing body to question any party or witness; and

(d) not permit cross-examination.

(3) Despite subsection (2), nothing in paragraph (c) or (d) of that subsection applies to a board of inquiry appointed under section 149J.

Section 39(1): amended, on 1 October 2009, by section 36(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 39(1): amended, on 10 August 2005, by section 20(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 39(1): amended, on 10 August 2005, by section 20(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 39(1): amended, on 7 July 1993, by section 27(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 39(1)(a): amended, on 1 October 2009, by section 36(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 39(1)(c): amended, on 1 October 2009, by section 36(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 39(1)(d): amended, on 1 October 2009, by section 36(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 39(1)(e): replaced, on 1 October 2009, by section 36(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 39(1)(fa): inserted, on 1 October 2009, by section 36(6) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 39(2)(b): amended, on 30 April 2016, by section 50 of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 (2016 No 17).

Section 39(3): inserted, on 4 September 2013, by section 9 of the Resource Management Amendment Act 2013 (2013 No 63).

### 39AA Hearing using remote access facilities

*Interpretation*

(1) In this section,—

**audio link** means a facility (such as a telephone facility) that enables audio communication between an authority and 1 or more persons with a right to be heard at a hearing

**audiovisual link** means a facility that enables both audio and visual communication between an authority and 1 or more persons with a right to be heard at a hearing

**remote access facility** means any of the following:

(a) audio link:

(b) audiovisual link:

(c) any other similar facility.

*Direction to use remote access facilities*

(2) For the purposes of section 39, an authority may direct that a hearing or part of a hearing may be conducted using 1 or more remote access facilities.

(3) A direction may be made under subsection (2)—

(a) on the initiative of the authority itself; or

(b) at the request of any person with a right to be heard at the hearing under section 40.

(4) An authority may make a direction under subsection (2) provided that the authority—

(a) considers it appropriate and fair to do so; and

(b) is satisfied that the necessary remote access facilities are available.

(5) If a hearing is conducted in full or in part using a remote access facility, the authority must,—

(a) if it is reasonably practicable to do so, enable access to the hearing by making the hearing available live and free of charge to the public, for example, on an Internet site; or

(b) as soon as practicable after the hearing closes, make available free of charge on its Internet site—

(i) an audio or a video recording of the hearing; or

(ii) a written transcript of the hearing.

*Exclusions*

(6) This section does not apply—

(a) to a public hearing if the relevant authority is represented by 1 or more persons appearing in person at the hearing and 1 or more persons make submissions or give evidence by means of a remote access facility; or

(b) to a hearing to which section 47A of the Local Government Official Information and Meetings Act 1987 applies.

*Deemed compliance*

(7) A hearing conducted in full or in part before 25 March 2020 using a remote access facility is deemed to comply with this section.

*When this section applies*

(8) This section applies on and from 25 March 2020.

(9) *[Repealed]*

Section 39AA: inserted, on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section 39AA heading: amended, on 1 July 2020, by section 11(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 39AA(8) heading: amended, on 1 July 2020, by section 11(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 39AA(9): repealed, on 1 July 2020, by section 11(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## 39A Accreditation

(1) The Minister must—

(a) approve a qualification or qualifications establishing a person's accreditation; and

(b) give notice of each qualification.

(2) A notice under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | The maker must publish it in the *Gazette* | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019 | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 39A: inserted, on 10 August 2005, by section 21 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 39A(1)(b): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 39A(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 39B Persons who may be given hearing authority

(1) This section applies when a local authority wants to apply any of sections 33, 34, and section 34A to give authority to 1 person or a group of persons to conduct a hearing on—

(a) an application for a resource consent; or

(b) a notice of requirement given under section 168 or section 189; or

(c) a request under clause 21(1) of Schedule 1 for a change to be made to a plan; or

(d) a review of a resource consent; or

(e) an application to change or cancel a condition of a resource consent; or

(f) a proposed policy statement or plan that is notified under clause 5 of Schedule 1 or given limited notification under clause 5A of that schedule; or

(g) any matter under section 357C.

(2) If the local authority wants to give authority to 1 person, it may do so only if the person is accredited.

(3) If the local authority wants to give authority to a group of persons that has a chairperson, it may do so only if—

(a) all persons in the group, including the chairperson, are accredited; or

(b) the chairperson is accredited and there are exceptional circumstances that do not provide the time or opportunity to ensure that all persons in the group are accredited.

(4) If the local authority wants to give authority to a group of persons that does not have a chairperson, it may do so only if—

(a) all the persons in the group are accredited; or

(b) over half of all the persons in the group are accredited and there are exceptional circumstances that do not provide the time or opportunity to ensure that all persons in the group are accredited.

Section 39B: inserted, on 9 August 2006, by section 22(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 39B(1)(a): amended, on 12 September 2014, by section 14(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(1)(c): amended, on 12 September 2014, by section 14(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(1)(d): inserted, on 12 September 2014, by section 14(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(1)(e): inserted, on 12 September 2014, by section 14(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(1)(f): inserted, on 12 September 2014, by section 14(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(1)(f): amended, on 19 April 2017, by section 22 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 39B(1)(g): inserted, on 12 September 2014, by section 14(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(3): replaced, on 12 September 2014, by section 14(4) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 39B(4): replaced, on 12 September 2014, by section 14(4) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 39C Effect of lack of accreditation

(1) This section applies when a local authority purports to give authority under section 39B to a person or group of persons, but does not in fact give it because the person, chairperson of the group, or members of the group are not accredited as required by the section.

(2) No decision made by the person or group of persons is invalid solely because the person, chairperson of the group, or members of the group were not accredited as required by section 39B.

Section 39C: inserted, on 10 August 2005, by section 23 of the Resource Management Amendment Act 2005 (2005 No 87).

### 40 Persons who may be heard at hearings

(1) At any hearing described in section 39, the applicant, and every person who has made a submission and stated that they wished to be heard at the hearing, may speak (either personally or through a representative) and call evidence.

(2) Notwithstanding subsection (1), the authority may, if it considers that there is likely to be excessive repetition, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.

(3) If—

(a) the applicant; or

(b) any person who made a submission and stated they wished to be heard at any such hearing—

fails to appear at the hearing, the authority may nevertheless proceed with the hearing, if it considers it fair and reasonable to do so.

Section 40 heading: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 40(3): inserted, on 7 July 1993, by section 28 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 40(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 41 Provisions relating to hearings

(1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by a local authority, a consent authority, or a person given authority to conduct hearings under sections 33, 34, 34A, 117, 149J, or 202:

(a) section 4, which gives powers to maintain order:

(b) section 4B, which relates to evidence:

(c) section 4D, which gives power to summon witnesses:

(d) section 5, which relates to the service of a summons:

(e) section 6, which relates to the protection of witnesses:

(f) section 7, which relates to allowances for witnesses.

(2) Every summons to a witness to appear at a hearing shall be in the prescribed form and be signed by the chairperson of the hearing.

(3) All allowances for a witness shall be paid by the party on whose behalf the witness is called.

(4) At every hearing conducted in relation to a matter described in section 39(1), the authority may request and receive, from any person who makes a report under section 42A or who is heard by the authority or who is represented at the hearing, any information or advice that is relevant and reasonably necessary to determine the application.

Section 41(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 41(1): amended, on 10 August 2005, by section 24 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 41(4): inserted, on 7 July 1993, by section 29 of the Resource Management Amendment Act 1993 (1993 No 65).

### 41A Control of hearings

An authority conducting a hearing on a matter described in section 39(1) may exercise a power under any of sections 41B to 41D, after considering whether the scale and significance of the hearing makes the exercise of the power appropriate.

Section 41A: inserted, on 10 August 2005, by section 25(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 41A: amended, on 18 October 2017, by section 130 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 41B Directions to provide evidence within time limits

(1) The authority may direct the applicant to provide briefs of evidence to the authority before the hearing.

(2) The applicant must provide the briefs of evidence at least 10 working days before the hearing.

(3) The authority may direct a person who has made a submission and who is intending to call expert evidence to provide briefs of the evidence to the authority before the hearing.

(4) The person must provide the briefs of evidence at least 5 working days before the hearing.

(5) *[Repealed]*

(6) *[Repealed]*

(7) *[Repealed]*

Section 41B: inserted, on 10 August 2005, by section 25(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 41B(5): repealed, on 3 March 2015, by section 88 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 41B(6): repealed, on 3 March 2015, by section 88 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 41B(7): repealed, on 3 March 2015, by section 88 of the Resource Management Amendment Act 2013 (2013 No 63).

### 41C Directions and requests before or at hearings

(1) Before or at the hearing, the authority may—

(a) direct the order of business at the hearing, including the order in which evidence and submissions are presented; or

(b) direct that evidence and submissions be—

(i) recorded; or

(ii) taken as read; or

(iii) limited to matters in dispute; or

(c) direct the applicant, when presenting evidence or a submission, to present it within a time limit; or

(d) direct a person who has made a submission, when presenting evidence or a submission, to present it within a time limit.

(2) Before or at the hearing, the authority may request a person who has made a submission to provide further information.

(3) At the hearing, the authority may request the applicant to provide further information.

(4) At the hearing, the authority may commission a consultant or any other person employed for the purpose to prepare a report on any matter on which the authority requires further information, if all the following apply:

(a) the activity that is the subject of the hearing may, in the authority's opinion, have a significant adverse environmental effect; and

(b) the applicant is notified before the authority commissions the report; and

(c) the applicant does not refuse to agree to the commissioning of the report.

(5) The authority must provide a copy of any further information requested under subsection (2), and received before the hearing, to the applicant and every person who made a submission.

(5A) Subsection (5B) applies to—

(a) any further information that—

(i) is requested under subsection (2) or (3); and

(ii) is received in writing or electronically after the start of the hearing; but

(iii) is not given as evidence at the hearing; and

(b) any report that is commissioned under subsection (4).

(5B) The authority must—

(a) provide a copy of the further information or report to the applicant and every person who made a submission and stated a wish to be heard; and

(b) make the further information or report available at its office to any person who made a submission and did not state a wish to be heard.

(5C) However, the authority does not need to provide further information to the applicant or submitter who provided the information.

(6) At the hearing, the authority may direct a person presenting a submission not to present—

(a) the whole submission, if all of it is irrelevant or not in dispute; or

(b) any part of it that is irrelevant or not in dispute.

(7) *[Repealed]*

(8) *[Repealed]*

(9) *[Repealed]*

Section 41C: inserted, on 10 August 2005, by section 25(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 41C(5): replaced, on 1 October 2009, by section 38 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 41C(5A): inserted, on 1 October 2009, by section 38 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 41C(5B): inserted, on 1 October 2009, by section 38 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 41C(5C): inserted, on 1 October 2009, by section 38 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 41C(7): repealed, on 18 October 2017, by section 131 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 41C(8): repealed, on 18 October 2017, by section 131 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 41C(9): repealed, on 18 October 2017, by section 131 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 41D Striking out submissions

(1) An authority conducting a hearing on a matter described in section 39(1) may direct that a submission or part of a submission be struck out if the authority is satisfied that at least 1 of the following applies to the submission or the part:

(a) it is frivolous or vexatious:

(b) it discloses no reasonable or relevant case:

(c) it would be an abuse of the hearing process to allow the submission or the part to be taken further:

(d) it is supported only by evidence that, though purporting to be independent expert evidence, has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert evidence on the matter:

(e) it contains offensive language.

(2) An authority—

(a) may make a direction under this section before, at, or after the hearing; and

(b) must record its reasons for any direction made.

(3) A person whose submission is struck out, in whole or in part, has a right of objection under section 357.

Section 41D: inserted, on 18 October 2017, by section 132 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 42 Protection of sensitive information

(1) A local authority may, on its own motion or on the application of any party to any proceedings or class of proceedings, make an order described in subsection (2) where it is satisfied that the order is necessary—

(a) to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu; or

(b) to avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information,—

and, in the circumstances of the particular case, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.

(2) A local authority may make an order for the purpose of subsection (1)—

(a) that the whole or part of any hearing or class of hearing at which the information is likely to be referred to, shall be held with the public excluded (which order shall, for the purposes of subsections (3) to (5) of section 48 of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section):

(b) prohibiting or restricting the publication or communication of any information supplied to it, or obtained by it, in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.

(3) An order made under subsection (2)(b) in relation to—

(a) any matter described in subsection (1)(a) may be expressed to have effect from the commencement of any proceedings to which it relates and for an indefinite period or until such date as the local authority considers appropriate in the circumstances:

(b) any matter described in subsection (1)(b) may be expressed to have effect from the commencement of any proceedings to which it relates but shall cease to have any effect at the conclusion of those proceedings—

and upon the date that such order ceases to have effect, the provisions of the Local Government Official Information and Meetings Act 1987 shall apply accordingly in respect of any information that was the subject of any such order.

(4) Any party to any proceedings or class of proceedings before a local authority may apply to the Environment Court for an order under section 279(3)(a) cancelling or varying any order made by the local authority under this section.

(5) Where, on the application of any party to any proceedings or class of proceedings, a local authority has declined to make an order described in subsection (2), that party may apply to the Environment Court for an order under section 279(3)(b).

(6) In this section—

(a) **information** includes any document or evidence:

(b) **local authority** includes—

(i) a board of inquiry appointed under section 47 or 149J:

(ia) a local board:

(ii) a community board:

(iii) a public body:

(iv) a special tribunal:

(v) a person given authority to conduct hearings under any of sections 33, 34, 34A, 117, and 202.

Section 42(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 42(5): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 42(6)(b): replaced, on 1 October 2009, by section 39 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 42(6)(b)(ia): inserted, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

*Reports*

Heading: inserted, on 7 July 1993, by section 30 of the Resource Management Amendment Act 1993 (1993 No 65).

### 42A Reports to local authority

(1) At any reasonable time before a hearing or, if no hearing is to be held, before the decision is made, a local authority (as local authority is defined in section 42(6)(b)) may require preparation of a report on information provided on any

matter described in section 39(1) by the applicant or any person who made a submission.

(1AA) The local authority may—

(a) require an officer of the local authority to prepare the report; or

(b) commission a consultant or any other person employed for the purpose to prepare the report.

(1A) The report does not need to repeat information included in the applicant's application under section 88(2).

(1B) Instead, the report may—

(a) adopt all of the information; or

(b) adopt any part of the information by referring to the part adopted.

(2) Any report prepared under subsection (1) may be considered at any hearing conducted by the local authority.

(3) If the report is in writing, the local authority must provide a copy of it to the applicant, and to every person who made a submission and stated a wish to be heard at the hearing, so that they receive the copy—

(a) at least 15 working days before the hearing, if the authority gives a direction under section 41B; or

(b) at least 5 working days before the hearing, if the authority does not give a direction under section 41B.

(4) If the report is in writing, the authority must—

(a) make the report available at its office to any person who made a submission and did not state a wish to be heard; and

(b) give written or electronic notice to those submitters that the report is available at the authority's office.

(5) The local authority may waive compliance with—

(a) subsection (3) if it is satisfied that there is no material prejudice, or is not aware of any material prejudice, to any person who should have been provided with a copy of the report under that subsection; or

(b) subsection (4)(b) if it is satisfied that there is no material prejudice, or is not aware of any material prejudice, to any person who should have been given notice of the report under that paragraph.

Section 42A: inserted, on 7 July 1993, by section 30 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 42A(1): replaced, on 4 September 2013, by section 10 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 42A(1AA): inserted, on 4 September 2013, by section 10 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 42A(1A): replaced, on 3 March 2015, by section 89 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 42A(1B): replaced, on 3 March 2015, by section 89 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 42A(3): replaced, on 1 October 2009, by section 40(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 42A(4): replaced, on 1 October 2009, by section 40(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 42A(5): inserted, on 1 October 2009, by section 40(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

# Part 4A
# Environmental Protection Authority

Part 4A: inserted, on 1 October 2009, by section 41 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 42B Establishment of Environmental Protection Authority

*[Repealed]*

Section 42B: repealed, on 1 July 2011, by section 7 of the Resource Management Amendment Act 2011 (2011 No 19).

## 42C Functions of EPA

The functions of the Environmental Protection Authority are—

(aa) to make recommendations to the Minister under section 144A in relation to a matter to which section 142(1) applies:

(a) to receive matters lodged under section 145:

(b) to make recommendations to the Minister under section 146 or 149ZB in respect of a matter referred to in paragraph (a):

(ba) to receive matters under section 149B(2):

(c) to make decisions under section 139 on applications for certificates of compliance for proposals or activities that are related to proposals of national significance:

(d) to provide secretarial and support services to—

(i) a board of inquiry appointed under section 149J:

(ii) a special tribunal appointed under section 202:

(daa) to provide planning advice under section 149L to a board of inquiry:

(dab) if requested by the Minister, to provide secretarial and support services to a person appointed under another Act to make a decision requiring the application of provisions of this Act as applied or modified by the other Act:

(dac) if requested by the Minister, to provide advice and secretarial and support services to the Minister in relation to the Minister's functions under the streamlined planning process (*see* subpart 5 of Part 5 and Part 5 of Schedule 1).

(da) to provide technical advice to the Minister on the development of a national environmental standard:

(e) to exercise any powers or perform any functions or duties delegated to it by the Minister under section 29(4):

(f) to perform the enforcement functions conferred by section 343F; and

(g) if requested by the Minister, to provide secretarial and support services to assist the Chief Freshwater Commissioner in the exercise of his or her functions and powers in respect of the freshwater planning process; and

(h) to exercise any other functions specified in this Act.

Section 42C: inserted, on 1 October 2009, by section 41 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 42C(aa): inserted, on 1 July 2011, by section 8(1) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 42C(ba): inserted, on 1 July 2011, by section 8(2) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 42C(d): inserted, on 1 July 2011, by section 8(3) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 42C(daa): inserted, on 19 April 2017, by section 23 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 42C(dab): inserted, on 19 April 2017, by section 23 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 42C(dac): inserted, on 19 April 2017, by section 23 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 42C(da): inserted, on 1 July 2011, by section 8(4) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 42C(f): replaced, on 1 July 2020, by section 12 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 42C(g): inserted, on 1 July 2020, by section 12 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 42C(h): inserted, on 1 July 2020, by section 12 of the Resource Management Amendment Act 2020 (2020 No 30).

### 42CA Cost recovery for specified function of EPA

(1) If the Minister asks the EPA under section 42C(dab) to provide secretarial and support services to a person (a **supported person**),—

(a) the Minister may direct the EPA to recover from that person the actual and reasonable costs incurred by the EPA in providing the services; and

(b) the EPA may recover those costs in accordance with the direction, but only to the extent that they are not provided for by an appropriation under the Public Finance Act 1989.

(2) The EPA must, on request by the supported person, provide an estimate of the costs likely to be recovered under this section.

(3) When recovering costs under this section, the EPA must have regard to the following criteria:

(a) the sole purpose is to recover the reasonable costs incurred in providing the services:

(b) the supported person should be required to pay for costs only to the extent that the benefit of the services provided by the EPA is obtained by that person as distinct from the community as a whole:

(c) the extent to which any activity by the supported person reduces the cost to the EPA of providing the services.

(4) If the EPA requires a supported person to pay costs recoverable under this section, the costs are a debt due to the Crown that is recoverable by the EPA on behalf of the Crown in any court of competent jurisdiction.

Section 42CA: inserted, on 19 April 2017, by section 24 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 42D Secretary for the Environment to exercise functions of EPA

*[Repealed]*

Section 42D: repealed, on 1 July 2011, by section 9 of the Resource Management Amendment Act 2011 (2011 No 19).

## Part 5
## Standards, policy statements, and plans

### 43AA Interpretation

In this Act, unless the context requires another meaning,—

**change** means—

(a) a change proposed by a local authority to a policy statement or plan under clause 2 of Schedule 1, including an IPI notified in accordance with section 80F(1) or (2); and

(b) a change proposed by any person to a policy statement or plan by a request under clause 21 of Schedule 1

**district plan**—

(a) means an operative plan approved by a territorial authority under Schedule 1; and

(b) includes all operative changes to the plan (whether arising from a review or otherwise)

**operative**, in relation to a policy statement or plan, or a provision of a policy statement or plan, means that the policy statement, plan, or provision—

(a) has become operative—

(i) in terms of clause 20 of Schedule 1; or

(ii) under section 86F; and

(b) has not ceased to be operative

**plan** means a regional plan or a district plan

**policy statement** means a regional policy statement

**proposed policy statement** means a proposed policy statement that has been notified under clause 5 of Schedule 1, or given limited notification under clause 5A of that schedule, but has not become operative in terms of clause 20 of that schedule

**regional coastal plan**—

(a) means an operative plan approved by the Minister of Conservation under Schedule 1; and

(b) includes all operative changes to the plan (whether arising from a review or otherwise)

**regional plan**—

(a) means an operative plan approved by a regional council under Schedule 1 (including all operative changes to the plan (whether arising from a review or otherwise)); and

(b) includes a regional coastal plan

**regional policy statement**—

(a) means an operative regional policy statement approved by a regional council under Schedule 1; and

(b) includes all operative changes to the policy statement (whether arising from a review or otherwise)

**rule** means a district rule or a regional rule

**variation** means an alteration by a local authority under clause 16A of Schedule 1 to—

(a) a proposed policy statement or plan; or

(b) a change.

Section 43AA: inserted, on 1 October 2009, by section 42 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 43AA **change**: replaced, on 21 December 2021, by section 5 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 43AA **proposed policy statement**: amended, on 19 April 2017, by section 25(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43AA **proposed policy statement**: amended, on 19 April 2017, by section 25(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 43AAB Meaning of district rule and regional rule

(1) In this Act, unless the context otherwise requires, **district rule** means a rule made as part of a district plan or proposed district plan in accordance with section 76.

(2) Subsection (1) is subject to section 86B and clause 10(5) of Schedule 1.

(3) In this Act, unless the context otherwise requires, **regional rule** means a rule made as part of a regional plan or proposed regional plan in accordance with section 68.

(4) Subsection (3) is subject to section 86B and clause 10(5) of Schedule 1.

Section 43AAB: inserted, on 1 October 2009, by section 42 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 43AAC Meaning of proposed plan

(1) In this Act, unless the context otherwise requires, **proposed plan**—

(a) means a proposed plan, a variation to a proposed plan or change, or a change to a plan proposed by a local authority that has been notified under clause 5 of Schedule 1 or given limited notification under clause 5A of that schedule, but has not become operative in terms of clause 20 of that schedule; and

(b) includes—

(i) a proposed plan or a change to a plan proposed by a person under Part 2 of Schedule 1 that has been adopted by the local authority under clause 25(2)(a) of Schedule 1:

(ii) an IPI notified in accordance with section 80F(1) or (2).

(2) Subsection (1) is subject to section 86B and clause 10(5) of Schedule 1.

Section 43AAC: inserted, on 1 October 2009, by section 42 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 43AAC(1)(a): amended, on 19 April 2017, by section 26(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43AAC(1)(a): amended, on 19 April 2017, by section 26(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43AAC(1)(b): replaced, on 21 December 2021, by section 6 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## Subpart 1—National direction

Subpart 1 heading: inserted, on 19 April 2017, by section 27 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### *National environmental standards*

Heading: replaced, on 19 April 2017, by section 27 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 43 Regulations prescribing national environmental standards

(1) The Governor-General may, by Order in Council, make regulations, to be known as national environmental standards, that prescribe any or all of the following technical standards, methods, or requirements:

(a) standards for the matters referred to in section 9, section 11, section 12, section 13, section 14, or section 15, including, but not limited to—

(i) contaminants:

(ii) water quality, level, or flow:

(iii) air quality:

(iv) soil quality in relation to the discharge of contaminants:

(b) standards for noise:

(c) standards, methods, or requirements for monitoring.

(2) The regulations may include:

(a) qualitative or quantitative standards:

(b) standards for any discharge or the ambient environment:

(c) methods for classifying a natural or physical resource:

(d) methods, processes, or technology to implement standards:

(da) non-technical methods or requirements:

(e) exemptions from standards:

(f) transitional provisions for standards, methods, or requirements.

(3) Section 360(2) applies to all regulations made under this section.

(4) Regulations made under this section may apply—

(a) generally; or

(b) to any specified district or region of any local authority; or

(c) to any specified part of New Zealand.

(5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 43: replaced, on 20 May 2003, by section 18 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 43(1)(a): amended, on 10 August 2005, by section 27 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43(2)(da): inserted, on 19 April 2017, by section 28(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43(4): inserted, on 19 April 2017, by section 28(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 43A Contents of national environmental standards

(1) National environmental standards may—

(a) prohibit an activity:

(b) allow an activity:

(c) restrict the making of a rule or the granting of a resource consent to matters specified in a national environmental standard:

(d) require a person to obtain a certificate from a specified person stating that an activity complies with a term or condition imposed by a national environmental standard:

(e) specify, in relation to a rule made before the commencement of a national environmental standard,—

(i) the extent to which any matter to which the standard applies continues to have effect; or

(ii) the time period during which any matter to which the standard applies continues to have effect:

(f) require local authorities to review, under section 128(1), all or any of the permits or consents to which paragraph (ba) of that subsection applies as soon as practicable or within the time specified in a national environmental standard.

(2) A national environmental standard that prohibits an activity—

(a) may do one or both of the following:

(i) state that a resource consent may be granted for the activity, but only on the terms or conditions specified in the standard, including the duration of a consent; and

(ii) require compliance with the rules in a plan or proposed plan as a term or condition; or

(b) may state that the activity is a prohibited activity.

(3) If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—

(a) allow the activity, unless it states that a resource consent is required for the activity; or

(b) state that the activity is a permitted activity.

(4) A national environmental standard that allows an activity—

(a) may state that a resource consent is not required for the activity; or

(b) may do one or both of the following:

(i) state that the activity is a permitted activity, but only on the terms or conditions specified in the standard; and

(ii) require compliance with the rules in a plan or proposed plan as a term or condition.

(5) If a national environmental standard allows an activity and states that a resource consent is not required for the activity, or states that an activity is a permitted activity, the following provisions apply to plans and proposed plans:

(a) a plan or proposed plan may state that the activity is a permitted activity on the terms or conditions specified in the plan; and

(b) the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the standard; and

(c) if a plan's terms or conditions deal with effects of the activity that are the same as those dealt with in the terms or conditions specified in the standard, the terms or conditions in the standard prevail.

(6) A national environmental standard that allows a resource consent to be granted for an activity—

(a) may state that the activity is—

(i) a controlled activity; or

(ii) a restricted discretionary activity; or

(iii) a discretionary activity; or

(iv) a non-complying activity; and

(b) may state the matters over which—

(i) control is reserved; or

(ii) discretion is restricted.

(7) A national environmental standard may specify the activities for which the consent authority—

(a) must give public notification of an application for a resource consent:

(b) is precluded from giving public notification of an application for a resource consent:

(c) is precluded from giving limited notification of an application for a resource consent.

(8) A national environmental standard may empower local authorities to charge for monitoring any specified permitted activities in the standard.

Section 43A: inserted, on 20 May 2003, by section 18 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 43A heading: replaced, on 1 October 2009, by section 43(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 43A(1): amended, on 10 August 2005, by section 28(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(b): replaced, on 10 August 2005, by section 28(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(c): amended, on 10 August 2005, by section 28(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(d): amended, on 10 August 2005, by section 28(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(e): amended, on 10 August 2005, by section 28(4)(a) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(e)(i): amended, on 10 August 2005, by section 28(4)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(e)(ii): amended, on 10 August 2005, by section 28(4)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(1)(f): amended, on 19 April 2017, by section 29(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43A(1)(f): amended, on 10 August 2005, by section 28(5) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(2): replaced, on 10 August 2005, by section 28(6) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(2)(a)(i): amended, on 19 April 2017, by section 29(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43A(3): inserted, on 10 August 2005, by section 28(6) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(4): inserted, on 10 August 2005, by section 28(6) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(5): inserted, on 10 August 2005, by section 28(6) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(6): inserted, on 10 August 2005, by section 28(6) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43A(7): inserted, on 1 October 2009, by section 43(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 43A(8): inserted, on 19 April 2017, by section 29(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 43B Relationship between national environmental standards and rules or consents

(1) A rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it.

(2) For the purposes of subsection (1),—

(a) a rule is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises:

(b) a resource consent is more stringent than a standard if it imposes conditions on an activity that the standard does not impose or authorise.

(3) A rule or resource consent that is more lenient than a national environmental standard prevails over the standard if the standard expressly says that a rule or consent may be more lenient than it.

(4) For the purposes of subsection (3), a rule or resource consent is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.

(5) A land use consent or a subdivision consent granted under the district rules before the date on which a national environmental standard is published under the Legislation Act 2019 prevails over the standard.

(6) The following permits and consents prevail over a national environmental standard:

(a) a coastal, water, or discharge permit:

(b) a land use consent granted in relation to a regional rule.

(6A) Subsection (6) applies—

(a) if those permits or consents are granted before the date on which a relevant national environmental standard is published under the Legislation Act 2019:

(b) until a review of the conditions of the permit or consent under section 128(1)(ba) results in some or all of the standard prevailing over the permit or consent.

(7) This subsection applies to a resource consent not covered by subsection (5) or (6). The consent prevails over a national environmental standard if the application giving rise to the consent was the subject of a decision on whether to notify it before the date on which the standard is published under the Legislation Act 2019. However, the consent does not prevail if the standard expressly provides otherwise.

(8) *[Repealed]*

(9) If a national environmental standard requires a resource consent to be obtained for an activity, sections 10, 10A, 10B, and 20A(2) apply to the activity as if the standard were a rule in a plan that had become operative.

Section 43B: replaced, on 10 August 2005, by section 29 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43B(3): replaced, on 19 April 2017, by section 30(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43B(5): replaced, on 1 October 2009, by section 44 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 43B(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43B(5): amended, on 19 April 2017, by section 30(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43B(6): replaced, on 19 April 2017, by section 30(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43B(6A): inserted, on 19 April 2017, by section 30(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 43B(6A)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43B(7): replaced, on 1 October 2009, by section 44 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 43B(7): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43B(8): repealed, on 1 October 2009, by section 44 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 43C Relationship between national environmental standards and water conservation orders

(1) A water conservation order that is more stringent than a national environmental standard applying to water prevails over the standard.

(2) A national environmental standard applying to water that is more stringent than a water conservation order prevails over the order.

Section 43C: replaced, on 10 August 2005, by section 29 of the Resource Management Amendment Act 2005 (2005 No 87).

### 43D Relationship between national environmental standards and designations

(1) A designation that exists when a national environmental standard is made prevails over the standard until the earlier of the following:

(a) the designation lapses:

(b) the designation is altered under section 181 by the alteration of conditions in it to which the standard is relevant.

(2) If the conditions of a designation are altered as described in subsection (1)(b), the standard—

(a) applies to the altered conditions; and

(b) does not apply to the unaltered conditions.

(3) A national environmental standard prevails over a designation that requires an outline plan if, when the standard is made,—

(a) the designation exists; and

(b) no outline plan for the designation has completed the process described in section 176A.

(4) A national environmental standard that exists when a designation is made prevails over the designation.

(5) A use is not required to comply with a national environmental standard if—

(a) the use was lawfully established by way of a designation that has lapsed; and

(b) the effects of the use, in character, intensity, and scale, are the same as or similar to those that existed before the designation lapsed; and

(c) the standard is made—

(i) after the designation was made; and

(ii) before or after it lapses.

(6) Work under a designation is not required to comply with a national environmental standard if the work has come under the designation through the following sequence of events:

(a) the work is made; and

(b) the standard is made; and

(c) the designation is applied to the work.

(7) In this section, **conditions** includes a condition about the physical boundaries of a designation.

Section 43D: replaced, on 10 August 2005, by section 29 of the Resource Management Amendment Act 2005 (2005 No 87).

### 43E Relationship between national environmental standards and bylaws

(1) A bylaw that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a bylaw may be more stringent than it.

(2) For the purposes of subsection (1), a bylaw is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises.

(3) A bylaw may be more lenient than a national environmental standard if the standard expressly specifies that the bylaw may be more lenient.

(4) For the purposes of subsection (3), a bylaw is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.

(5) In this section, **bylaw** means a bylaw made under any enactment.

Section 43E: replaced, on 10 August 2005, by section 29 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 43E(3): replaced, on 19 April 2017, by section 31 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 43F Description of discharges in national environmental standards for discharges

A national environmental standard for an activity that is a discharge may describe the discharge by referring to—

(a) particular contaminants or sources of contaminants in a discharge; or

(b) the circumstances or sources of a discharge.

Section 43F: inserted, on 10 August 2005, by section 29 of the Resource Management Amendment Act 2005 (2005 No 87).

### 43G Incorporation of material by reference in national environmental standards

*[Repealed]*

Section 43G: repealed, on 19 April 2017, by section 32 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 44 Restriction on power to make national environmental standards

(1) Before recommending the making of a national environmental standard to the Governor-General, the Minister must—

(a) comply with section 46A(3); and

(b) prepare an evaluation report for the standard in accordance with section 32; and

(c) have particular regard to that report when deciding whether to recommend the making of the standard; and

(d) publicly notify the report and recommendation made under section 46A(4)(c) or 51(2), as the case requires.

(2) For the purposes of subsection (1)(a), the Minister—

(a) must consider a report and any recommendations made to the Minister under section 46A(4)(c) or 51, as the case requires; and

(b) may make any changes, or no changes, to the proposed national environmental standard as the Minister thinks fit.

(2) *[Repealed]*

(3) The Minister need not follow the steps in section 46A if the Minister is recommending the making of an amendment—

(a) that has no more than a minor effect; or

(b) that corrects errors or makes similar technical alterations.

Section 44: replaced, on 1 October 2009, by section 45 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 44(1): replaced, on 19 April 2017, by section 33(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 44(2): inserted, on 1 July 2020, by section 13 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 44(2): repealed, on 19 April 2017, by section 33(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 44(3): amended, on 19 April 2017, by section 33(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 44A Local authority recognition of national environmental standards

(1) Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that duplicates a provision in a national environmental standard.

(2) Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that conflicts with a provision in a national environmental standard. A rule conflicts with a provision if—

(a) both of the following apply:

(i) the rule is more stringent than the provision in that it prohibits or restricts an activity that the provision permits or authorises; and

(ii) the standard does not expressly say that a rule may be more stringent than it; or

(b) the rule in the plan is more lenient than a provision in the standard and the standard does not expressly specify that a rule may be more lenient than the provision in the standard.

(3) If the duplication or conflict is dealt with in the national environmental standard in one of the ways described in section 43A(1)(e), the local authority must amend the plan or proposed plan to remove the duplication or conflict—

(a) without using the process in Schedule 1; and

(b) in accordance with the specification in the national environmental standard.

(4) If the duplication or conflict arises as described in section 43A(5)(c), the local authority must amend the plan or proposed plan to remove the duplication or conflict—

(a) without using the process in Schedule 1; and

(b) as soon as practicable after the date on which the standard comes into force.

(5) In every other case of duplication or conflict, the local authority must amend the plan or proposed plan to remove the duplication or conflict—

(a) without using the process in Schedule 1; and

(b) as soon as practicable after the date on which the standard comes into force.

(6) A local authority may amend a plan or proposed plan to include a reference to a national environmental standard—

(a) without using the process in Schedule 1; and

(b) after the date on which the standard comes into force.

(7) Every local authority and consent authority must observe national environmental standards.

(8) Every local authority and consent authority must enforce the observance of national environmental standards to the extent to which their powers enable them to do so.

Section 44A: inserted, on 1 October 2009, by section 45 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 44A(2)(b): replaced, on 19 April 2017, by section 34 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*National policy statements*

### 45 Purpose of national policy statements (other than New Zealand coastal policy statements)

(1) The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.

(2) In determining whether it is desirable to prepare a national policy statement, the Minister may have regard to—

(a) the actual or potential effects of the use, development, or protection of natural and physical resources:

(b) New Zealand's interests and obligations in maintaining or enhancing aspects of the national or global environment:

(c) anything which affects or potentially affects any structure, feature, place, or area of national significance:

(d) anything which affects or potentially affects more than 1 region:

(e) anything concerning the actual or potential effects of the introduction or use of new technology or a process which may affect the environment:

(f) anything which, because of its scale or the nature or degree of change to a community or to natural and physical resources, may have an impact on, or is of significance to, New Zealand:

(g) anything which, because of its uniqueness, or the irreversibility or potential magnitude or risk of its actual or potential effects, is of significance to the environment of New Zealand:

(h) anything which is significant in terms of section 8 (Treaty of Waitangi):

(i) the need to identify practices (including the measures referred to in section 24(h), relating to economic instruments) to implement the purpose of this Act:

(j) any other matter related to the purpose of a national policy statement.

Section 45(1): amended, on 20 May 2003, by section 19 of the Resource Management Amendment Act 2003 (2003 No 23).

### 45A Contents of national policy statements

(1) A national policy statement must state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.

(2) A national policy statement may also state—

(a) the matters that local authorities must consider in preparing policy statements and plans:

(b) methods or requirements in policy statements or plans, and any specifications for how local authorities must apply those methods or requirements, including the use of models and formulae:

(c) the matters that local authorities are required to achieve or provide for in policy statements and plans:

(d) constraints or limits on the content of policy statements or plans:

(e) objectives and policies that must be included in policy statements and plans:

(f) directions to local authorities on the collection and publication of specific information in order to achieve the objectives of the statement:

(g) directions to local authorities on monitoring and reporting on matters relevant to the statement, including—

(i) directions for monitoring and reporting on their progress in relation to any provision included in the statement under this section; and

(ii) directions for monitoring and reporting on how they are giving effect to the statement; and

(iii) directions specifying standards, methods, or requirements for carrying out monitoring and reporting under subparagraph (i) or (ii):

(h) any other matter relating to the purpose or implementation of the statement.

(3) A national policy statement may apply—

(a) generally; or

(b) to any specified district or region of any local authority; or

(c) to any specified part of New Zealand.

(4) A national policy statement may include transitional provisions for any matter, including its effect on existing matters or proceedings.

(5) Consultation undertaken before this section comes into force in relation to a matter included in a national policy statement satisfies the requirement for consultation under section 46A.

Section 45A: inserted, on 19 April 2017, by section 35 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 46 Proposed national policy statement

*[Repealed]*

Section 46: repealed, on 19 April 2017, by section 36 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 46A Single process for preparing national directions

(1) This section and sections 47 to 51 set out the requirements for preparing a national direction.

(2) In this section and sections 47 to 51, **national direction** means both or either of the following documents:

(a) a national environmental standard:

(b) a national policy statement.

(3) If the Minister proposes to issue a national direction, the Minister must either—

(a) follow the requirements set out in sections 47 to 51; or

(b) establish and follow a process that includes the steps described in subsection (4).

(4) The steps required in the process established under subsection (3)(b) must include the following:

(a) the public and iwi authorities must be given notice of—

(i) the proposed national direction; and

(ii) why the Minister considers that the proposed national direction is consistent with the purpose of the Act; and

(b) those notified must be given adequate time and opportunity to make a submission on the subject matter of the proposed national direction; and

(c) a report and recommendations must be made to the Minister on the submissions and the subject matter of the national direction; and

(d) the matters listed in section 51(1) must be considered as if the references in that provision to a board of inquiry were references to the person who prepares the report and recommendations.

(5) In preparing a national direction, the Minister may, at any time, consult on a draft national direction.

(6) When choosing between subsection (3)(a) and (b), the Minister may consider—

(a) the advantages and disadvantages of preparing the proposed national direction quickly:

(b) the extent to which the proposed national direction differs from—

(i) other national environmental standards:

(ii) other national policy statements:

(iii) regional policy statements:

(iv) plans:

(c) the extent and timing of public debate and consultation that took place before the proposed national direction was prepared:

(d) any other relevant matter.

(7) If the Minister decides, after consulting as required by subsection (3), to recommend that regulations on the same subject matter as that consulted on be made under any of sections 360 to 360C, the consultation under subsection (3) satisfies the requirement to consult the public and iwi authorities in relation to those regulations.

(8) *[Repealed]*

Section 46A: replaced, on 19 April 2017, by section 37 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 46A(7): amended, on 1 July 2020, by section 14 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 46A(8): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 46B Incorporation of material by reference in national direction

A national direction may incorporate material by reference under Schedule 1AA.

Section 46B: inserted, on 10 August 2005, by section 33 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 46B heading: amended, on 19 April 2017, by section 38(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 46B: amended, on 19 April 2017, by section 38(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 47 Board of inquiry

(1) The Minister must appoint a board of inquiry to inquire into, and report on, the proposed national direction.

(2) The Minister may, as the Minister sees fit,—

(a) set terms of reference for the board of inquiry; and

(b) set the rate of remuneration to be paid to members of the board of inquiry.

(3) A member of the board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

Section 47: replaced, on 20 May 2003, by section 20 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 47(1): amended, on 19 April 2017, by section 39 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 47(3): inserted, on 1 October 2009, by section 47 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 47A Board of inquiry to suspend consideration or consider additional material

(1) The Minister may, at any time before a board of inquiry reports to the Minister under section 51(2), do either or both of the following:

(a) direct the board to suspend its inquiry for a specified period or until a specified event occurs (for example, until the Minister provides the board with additional material):

(b) provide the board with additional material to consider.

(2) The Minister must give public notice of a direction under subsection (1)(a), including the reasons for the direction.

(3) A board of inquiry must suspend its inquiry in accordance with a direction under subsection (1)(a).

Section 47A: inserted, on 1 October 2009, by section 48 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 48 Public notification of proposal for national direction and inquiry

(1) As soon as practicable after its appointment, a board of inquiry must ensure that—

(a) public notice of the proposed national direction and inquiry is given; and

(b) a copy of the short summary of the notice referred to in section 2AB(1)(b), along with details of the Internet site where the notice can be accessed, is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin.

(2) Every notice for the purposes of this section shall be in the prescribed form and shall state—

(a) a description of the proposed national direction; and

(ab) places at which the proposed national direction may be inspected or purchased; and

(b) that submissions on the proposed national direction may be made in writing by any person; and

(c) the closing date for submissions (which shall be not earlier than 20 working days after public notification).

Section 48 heading: replaced, on 19 April 2017, by section 40(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 48(1): replaced, on 18 October 2017, by section 133 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 48(1)(a): amended, on 24 October 2019, by section 126 of the Statutes Amendment Act 2019 (2019 No 56).

Section 48(2)(a): amended, on 19 April 2017, by section 40(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 48(2)(ab): inserted, on 20 May 2003, by section 21(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 48(2)(ab): amended, on 19 April 2017, by section 40(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 48(2)(b): amended, on 19 April 2017, by section 40(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 48(2)(b): amended, on 20 May 2003, by section 21(4) of the Resource Management Amendment Act 2003 (2003 No 23).

### 49 Submissions to board of inquiry

(1) Any person may make a submission to the board of inquiry about a proposed national direction which is notified in accordance with section 48.

(2) Every submission shall be in writing, shall be served on the board of inquiry, and shall state whether or not the person making the submission wishes to be heard in respect of the submission, and shall also state any other matter prescribed in regulations made under this Act.

Section 49(1): amended, on 19 April 2017, by section 41 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 50 Conduct of hearing

(1) Sections 39 to 42A apply, with all necessary modifications, in respect of an inquiry by a board of inquiry into a proposed national direction as if every reference in those sections to—

(a) a consent authority or local authority were a reference to a board of inquiry; and

(b) a proposed direction were a reference to a proposed national direction.

(2) The board of inquiry must give at least 10 working days' notice of the dates, times, and place of the hearing of the inquiry.

(3) The Minister has the right to be heard at the hearing, despite anything in sections 39 to 42.

(4) To avoid doubt, subsection (3) does not limit the right of other persons to be heard under section 40.

Section 50: replaced, on 20 May 2003, by section 22 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 50(1): amended, on 19 April 2017, by section 42 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 50(1)(b): amended, on 19 April 2017, by section 42 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 50(3): replaced, on 1 October 2009, by section 49 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 50(4): inserted, on 1 October 2009, by section 49 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 51 Matters to be considered and board of inquiry's report

(1) The board of inquiry must consider the following matters:

(a) the matters in Part 2; and

(b) the proposed national direction; and

(c) any submissions received on the proposed national direction; and

(ca) if applicable, any additional material provided by the Minister under section 47A(1)(b); and

(d) any evidence received; and

(e) any other relevant matter.

(2) After considering the matters, the board of inquiry must arrange for a report and recommendations to be made to the Minister within any terms of reference set by the Minister.

Section 51: replaced, on 20 May 2003, by section 22 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 51(1)(b): amended, on 19 April 2017, by section 43 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 51(1)(c): amended, on 19 April 2017, by section 43 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 51(1)(ca): inserted, on 1 October 2009, by section 50 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 51(1)(ca): amended, on 1 July 2020, by section 15 of the Resource Management Amendment Act 2020 (2020 No 30).

### 51A Withdrawal of proposed national policy statement

(1) The Minister may withdraw all or part of a proposed national policy statement at any time before the statement is approved under section 52(2).

(2) The Minister must give public notice of the withdrawal, including the reasons for the withdrawal.

(3) If a board of inquiry has not reported to the Minister under section 51(2) before public notice is given—

(a) withdrawing all matters the board was appointed to inquire into, the board is discharged on and from the date of the notice; or

(b) withdrawing any, but not all, of the matters the board was appointed to inquire into, the board must inquire into and report on only the matters that have not been withdrawn, despite any other section of this Act.

Section 51A: inserted, on 1 October 2009, by section 51 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 52 Consideration of recommendations and approval or withdrawal of statement

(1) In the case of a national policy statement, whether made in accordance with section 46A(3)(a) or (b), the Minister—

(a) first, must consider a report and any recommendations made to him or her by a board of inquiry under section 46A(4)(c) or 51, as the case requires; and

(b) secondly, may—

(i) make any changes, or no changes, to the proposed national policy statement as he or she thinks fit; or

(ii) withdraw all or part of the proposed national policy statement and give public notice of the withdrawal, including the reasons for the withdrawal; and

(c) thirdly, must undertake an evaluation of the proposed national policy statement in accordance with section 32 and have particular regard to that evaluation when deciding whether to recommend the statement.

(2) The Governor-General in Council may, on the recommendation of the Minister, approve a national policy statement.

(3) The Minister must, as soon as practicable after a national policy statement has been approved,—

(a) issue the statement by having it published under the Legislation Act 2019; and

(b) publicly notify the statement and the report in whatever form he or she thinks appropriate and send a copy to every local authority; and

(c) provide every person who made a submission on the statement with a summary of the recommendations and a summary of the Minister's decision on the recommendations (including reasons for not adopting any recommendations).

(d) *[Repealed]*

(4) A national policy statement under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) That Act applies as if—

(a) the Minister were the maker of the national policy statement; and

(b) the national policy statement were made when the Order in Council under subsection (2) is made.

**Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)**

| | | |
|---|---|---|
| **Publication** | The maker must:<br>• give public notice of it (see section 2AB)<br>• publish it in whatever form the maker thinks appropriate<br>• publish the Order in Council made under subsection (2) in the *Gazette*<br>• comply with subsection (3) and section 54(1) | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 52: replaced, on 20 May 2003, by section 22 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 52 heading: amended, on 1 October 2009, by section 52(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 52(1): replaced, on 3 December 2013, for all purposes, by section 75 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 52(1): amended, on 19 April 2017, by section 44(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 52(1)(a): amended, on 19 April 2017, by section 44(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 52(1)(c): amended, on 19 April 2017, by section 44(3)(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 52(1)(c): amended, on 19 April 2017, by section 44(3)(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 52(3)(a): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 52(3)(c): replaced, on 1 October 2009, by section 52(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 52(3)(d): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 52(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 52(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 53 Changes to or review or revocation of national policy statements

(1) The Minister may review, change, or revoke a national policy statement after using one of the processes referred to in section 46A(1) in relation to the preparation of a national policy statement.

(2) The Minister may, without using a process referred to in subsection (1),—

(a) amend a national policy statement if the amendment is of minor effect or corrects a minor error:

(b) amend the NPS-UD in accordance with section 77S(2).

(3) A change, revocation, or amendment under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation referred to in subsection (1)** | | |
|---|---|---|
| **Publication** | The maker must:<br>• give public notice of it (see section 2AB)<br>• publish it in whatever form the maker thinks appropriate<br>• publish the Order in Council made under section 52(2) in the *Gazette*<br>• comply with sections 52(3) and 54(1) | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

| **Legislation Act 2019 requirements for secondary legislation referred to in subsection (2)** | | |
|---|---|---|
| **Publication** | The maker must:<br>• give public notice of it (see section 2AB) | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |

| | | |
|---|---|---|
| | • publish it in whatever form the maker thinks appropriate<br>• comply with section 54(1) | |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 53(1): amended, on 10 August 2005, by section 34 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 53(2): replaced, on 21 December 2021, by section 7 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 53(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 54 Publication of national policy statements

(1) When a national policy statement is issued, changed, or revoked, the Minister must send a copy of the statement, change, or revocation to every local authority.

(2) When a national policy statement is reviewed, the Minister must—

(a) publish the review in whatever form the Minister thinks appropriate; and

(b) send a copy of the review to every local authority; and

(c) give public notice of the review.

Section 54: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 55 Local authority recognition of national policy statements

(1) In subsections (2) and (2A), **document** means—

(a) a regional policy statement; or

(b) a proposed regional policy statement; or

(c) a proposed plan; or

(d) a plan; or

(e) a variation.

(2) A local authority must amend a document, if a national policy statement directs so,—

(a) to include specific objectives and policies set out in the statement; or

(b) so that objectives and policies specified in the document give effect to objectives and policies specified in the statement; or

(c) if it is necessary to make the document consistent with any constraint or limit set out in the statement.

(2A) The local authority must—

(a) make the amendments referred to in subsection (2) without using the process in Schedule 1; and

(b) give public notice of the amendments within 5 working days after making them.

(2B) The local authority must also make all other amendments to a document that are required to give effect to any provision in a national policy statement that affects the document.

(2C) The local authority must make the amendments referred to in subsection (2B) using the process in Schedule 1.

(2D) In all cases, the local authority must make the amendments—

(a) as soon as practicable; or

(b) within the time specified in the national policy statement (if any); or

(c) before the occurrence of an event specified in the national policy statement (if any).

(3) A local authority must also take any other action that is directed by the national policy statement.

(4) *[Repealed]*

Section 55: replaced, on 20 May 2003, by section 23 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 55(1): replaced, on 10 August 2005, by section 35 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 55(2): replaced, on 1 October 2009, by section 53 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 55(2)(b): amended, on 19 April 2017, by section 45(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 55(2)(c): inserted, on 19 April 2017, by section 45(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 55(2A): replaced, on 1 October 2009, by section 53 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 55(2B): inserted, on 1 October 2009, by section 53 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 55(2C): inserted, on 1 October 2009, by section 53 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 55(2D): inserted, on 1 October 2009, by section 53 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 55(3): amended, on 19 April 2017, by section 45(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 55(4): repealed, on 19 April 2017, by section 45(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### *New Zealand coastal policy statements*

### 56 Purpose of New Zealand coastal policy statements

The purpose of a New Zealand coastal policy statement is to state objectives and policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand.

Section 56: amended, on 19 April 2017, by section 46 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 57 Preparation of New Zealand coastal policy statements

(1) There shall at all times be at least 1 New Zealand coastal policy statement prepared, recommended, and issued by the Minister of Conservation using one of the processes referred to in section 46A(3), as if references in sections 46 to 52 to the Minister were references to the Minister of Conservation and references to a national policy statement were references to a New Zealand coastal policy statement.

(2) Sections 53, 54, and 55, with all necessary modifications, apply to a New Zealand coastal policy statement as if it were a national policy statement and as if references in those sections to the Minister were references to the Minister of Conservation.

(3) For the status under the Legislation Act 2019 of—

(a) a New Zealand coastal policy statement, *see* section 52(4):

(b) a change or amendment to, or revocation of, a New Zealand coastal policy statement, *see* section 53(3).

Section 57(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 57(1): amended, on 19 April 2017, by section 47 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 57(1): amended, on 10 August 2005, by section 36 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 57(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 58 Contents of New Zealand coastal policy statements

(1) A New Zealand coastal policy statement may state objectives and policies about any 1 or more of the following matters:

(a) national priorities for the preservation of the natural character of the coastal environment of New Zealand, including protection from inappropriate subdivision, use, and development:

(b) the protection of the characteristics of the coastal environment of special value to the tangata whenua including waahi tapu, tauranga waka, mahinga maataitai, and taonga raranga:

(c) activities involving the subdivision, use, or development of areas of the coastal environment:

(d) the Crown's interests in the coastal marine area:

(e) the matters to be included in 1 or more regional coastal plans in regard to the preservation of the natural character of the coastal environment, including the activities that are required to be specified as restricted coastal activities because the activities—

(i) have or are likely to have significant or irreversible adverse effects on the coastal marine area; or

(ii) relate to areas in the coastal marine area that have significant conservation value:

(f) the implementation of New Zealand's international obligations affecting the coastal environment:

(g) the procedures and methods to be used to review the policies and to monitor their effectiveness:

(ga) national priorities for maintaining and enhancing public access to and along the coastal marine area:

(gb) the protection of protected customary rights:

(h) any other matter relating to the purpose of a New Zealand coastal policy statement.

(2) A New Zealand coastal policy statement may also include any of the matters specified in section 45A(2) and (4) (which applies as if references to a national policy statement were references to a New Zealand coastal policy statement).

(3) A New Zealand coastal policy statement or any provisions of it may apply—

(a) generally within the coastal environment; or

(b) to any specified part of the coastal environment.

Section 58(1): amended, on 10 August 2005, by section 37 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 58(1)(d): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 58(1)(e): replaced, on 1 October 2009, by section 54 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 58(1)(ga): inserted, on 25 November 2004, by section 13 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 58(1)(gb): inserted, on 25 November 2004, by section 13 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 58(1)(gb): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 58(2): inserted, on 19 April 2017, by section 48 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58(3): inserted, on 19 April 2017, by section 48 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 58A Incorporation of material by reference in New Zealand coastal policy statements

*[Repealed]*

Section 58A: repealed, on 19 April 2017, by section 49 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*National planning standards*

Heading: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58B Purposes of national planning standards

(1) The purposes of national planning standards are—

(a) to assist in achieving the purpose of this Act; and

(b) to set out requirements or other provisions relating to any aspect of the structure, format, or content of regional policy statements and plans to address any matter that the Minister considers—

(i) requires national consistency:

(ii) is required to support the implementation of a national environmental standard, a national policy statement, a New Zealand coastal policy statement, or regulations made under this Act:

(iii) is required to assist people to comply with the procedural principles set out in section 18A.

(2) In this section and sections 58C to 58K, references to the Minister are to be read as references to the Minister of Conservation if, and to the extent that, a matter relates to the coastal marine area.

Section 58B: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58C Scope and contents of national planning standards

(1) National planning standards must—

(a) give effect to national policy statements; and

(b) be consistent with—

(i) national environmental standards; and

(ii) regulations made under this Act; and

(iii) water conservation orders.

(2) National planning standards may specify—

(a) any of the matters specified in section 45A(2) and (4) (which applies as if the national planning standard were a national policy statement):

(b) objectives, policies, methods (including rules), and other provisions to be included in plans:

(c) objectives, policies, methods (but not rules), and other provisions to be included in regional policy statements:

(d) that a local authority must review, under section 128(1), a discharge, coastal, or water permit, or a land use consent required in relation to a regional rule.

(3) For the purpose of subsection (2)(b), national planning standards may include any rules that could be included in any plan under section 68, 68A to 70A, 76, or 77A to 77D.

(4) A national planning standard may also—

(a) specify the structure and form of regional policy statements and plans:

(b) direct local authorities—

(i) to use a particular structure and form for regional policy statements and plans:

(ii) to include specific provisions in their policy statements and plans:

(iii) to choose from a number of specific provisions to be included in their policy statements and plans:

(c) direct whether a national planning standard applies generally, to specific regions or districts, or to other parts of New Zealand:

(d) include time frames for local authorities to give effect to the whole or part of a national planning standard, including different time frames for different local authorities:

(e) specify where local provisions must or may be included in regional policy statements and plans:

(f) include requirements that relate to the electronic accessibility and functionality of policy statements and plans.

(5) National planning standards may incorporate material by reference, and Schedule 1AA applies for the purposes of this subsection as if references to a national environmental standard, national policy statement, or New Zealand coastal policy statement included references to the national planning standards.

(6) National planning standards may, for ease of reference, set out (or incorporate by reference) provisions of a national policy statement, New Zealand coastal policy statement, or regulations (including a national environmental standard), but those provisions do not form part of a national planning standard for the purposes of any other provision of this Act or for any other purpose.

Section 58C: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58D Preparation of national planning standards

(1) If the Minister decides to prepare a national planning standard, the Minister must prepare it in accordance with this section and sections 58E to 58K.

(2) In preparing or amending a national planning standard, the Minister may have regard to—

(a) whether it is desirable to have national consistency in relation to a resource management issue:

(b) whether the national planning standard supports the implementation of national environmental standards, national policy statements, a New Zealand coastal policy statement, or regulations made under this Act:

(c) whether the national planning standard should allow for local circumstances and, if so, to what extent:

(d) whether it is appropriate for the national planning standard to apply to a specified district, region, or other parts of New Zealand rather than nationally:

(e) any other matter that is relevant to the purpose of the national planning standard.

(3) Before approving a national planning standard, the Minister must—

(a) prepare a draft national planning standard; and

(b) prepare an evaluation report in accordance with section 32 and have particular regard to that report before deciding whether to publicly notify the draft; and

(c) publicly notify the draft; and

(d) establish a process that—

(i) the Minister considers gives the public, local authorities, and iwi authorities adequate time and opportunity to make a submission on the draft; and

(ii) requires a report and recommendations to be made to the Minister on those submissions and the subject matter of the draft.

Section 58D: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58E Approval of national planning standard

(1) Before approving a national planning standard, the Minister must—

(a) consider the report and recommendations made under section 58D(3)(d)(ii); and

(b) carry out a further evaluation of the draft national planning standard in accordance with section 32AA and have particular regard to that evaluation when deciding whether to approve the national planning standard.

(2) The Minister may—

(a) approve a national planning standard after changing the draft in the manner that the Minister thinks fit; or

(b) withdraw all or part of a draft national planning standard and give public notice of the withdrawal, including the reasons for the withdrawal.

(3) National planning standards under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) *[Repealed]*

| Legislation Act 2019 requirements for secondary legislation referred to in subsection (3) | | |
|---|---|---|
| **Publication** | The maker must:<br>• give notice of its approval in the *Gazette*<br>• give public notice of its approval (see section 2AB)<br>• comply with section 58F | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 58E: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58E(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 58E(4): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 58F Publication of national planning standards and other documents

(1) The Minister must ensure that—

(a) *[Repealed]*

(b) all national planning standards are published together in an integrated format that will assist the implementation of the national planning standards; and

(c) copies of all national planning standards are provided to every local authority.

(2) The Minister must publish all the national planning standards and the reports and any recommendations on them made to the Minister under section 58D(3)(d) on an Internet site to which the public has free access, and may publish the national planning standards and the reports and recommendations in any other way or form that the Minister considers appropriate.

Section 58F: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58F(1)(a): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 58G First set of national planning standards

(1) The Minister must ensure that a first set of national planning standards is approved not later than 2 years after the date on which this section comes into force.

(2) The first set of national planning standards must include the following minimum requirements (the **minimum requirements**):

(a) a structure and form for policy statements and plans, including references to relevant national policy statements, national environmental standards, and regulations made under this Act; and

(b) definitions; and

(c) requirements for the electronic functionality and accessibility of policy statements and plans.

(3) The Minister must ensure that, at all times after the approval of the first set of national planning standards, the minimum requirements are included in a planning standard.

Section 58G: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58H Changing, replacing, or revoking national planning standards

(1) The Minister may change or replace a national planning standard, following the process set out in sections 58D and 58E.

(2) If a change to a national planning standard has not more than a minor effect or corrects errors or makes similar technical alterations, the Minister may make the change without following the process set out in sections 58D and 58E.

(2A) The Minister may change the period for compliance specified in standards 17.2.a and 17.8.a of the National Planning Standards 2019 from 3 years to 5 years without following the process set out in sections 58D and 58E, other than to give notice of the change in the *Gazette* and on the Internet site referred to in section 58F(2).

(3) The Minister may revoke a national planning standard in whole or in part, but must first give the public and iwi authorities notice, with adequate time and opportunity to comment on the proposed revocation.

(4) The revocation of the whole or part of a national planning standard does not have the effect of revoking any provision of a plan included at the direction of, or in reliance on, a revoked provision of the national planning standard.

(5) A change to or revocation of a national planning standard is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation referred to in subsection (2) or (3)** | | |
|---|---|---|
| **Publication** | The maker must:<br>• notify it in the *Gazette*<br>• comply with section 58F(2) | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

| **Legislation Act 2019 requirements for all other secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | The maker must:<br>• give notice of its approval in the *Gazette*<br>• give public notice of its approval (see section 2AB)<br>• comply with section 58F | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |

**Disallowance** It may be disallowed by the House of Representatives LA19 ss 115, 116
*This note is not part of the Act.*

Section 58H: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58H(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 58H(2A): inserted, on 3 November 2021, by Schedule 3 clause 9 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 58H(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 58H(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 58I Local authority recognition of national planning standards

(1) In this section and sections 58J and 58K, **document** means any of the following:

(a) a regional policy statement:

(b) a proposed regional policy statement:

(c) a proposed plan:

(d) a plan:

(e) a variation:

(f) a change.

*Mandatory directions*

(2) If a national planning standard so directs, a local authority must amend each of its documents—

(a) to include specific provisions in the documents; and

(b) to ensure that the document is consistent with any constraint or limit placed on the content of the document under section 58C(2)(a) to (c).

(3) An amendment required by subsection (2) must—

(a) be made without using any of the processes set out in Schedule 1; and

(b) be made within the time specified in the national planning standard or (in the absence of a specified time) within 1 year after the date on which the national planning standard is published under the Legislation Act 2019; and

(c) amend the document to include the provisions as directed; and

(d) include any consequential amendments to any document as necessary to avoid duplication or conflict with the amendments; and

(e) be publicly notified not later than 5 working days after the amendments are made under paragraph (d).

*Discretionary directions*

(4) If a national planning standard directs a local authority to choose from a number of specific provisions in a national planning standard, the local authority must—

(a) choose an appropriate provision; and

(b) use one of the processes set out in Schedule 1 in order to apply the provision to the local circumstances, but not to decide the content of the provision set by the national planning standard; and

(c) notify any amendment required under this section within the time specified in the national planning standard, using any of the processes provided for by Schedule 1; and

(d) make any consequential amendments to its documents needed to avoid duplication or inconsistency, but without using a process set out in Schedule 1; and

(e) publicly notify any amendments made under paragraph (d) not later than 5 working days after the amendments are made.

(5) A document is amended as from the date of the relevant public notice under subsection (3)(e) or (4)(c).

(6) For the purpose of subsection (4)(a), a national planning standard may specify how local authorities are to choose relevant provisions from the national planning standard.

*Other changes that may be directed*

(7) A local authority must—

(a) make all other amendments to any document that are required to give effect to any provision in a national planning standard that affects the document, using one of the processes set out in Schedule 1; and

(b) notify all amendments required under paragraph (a) not later than 1 year after the date on which the national planning standard is published under the Legislation Act 2019.

(8) A local authority must also take any other action that is directed by a national planning standard.

(9) This section and section 58J are subject to the obligations of local authorities, or of any particular local authority, under any other Act that relates to the preparation or change of a policy statement or plan under this Act.

Section 58I: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58I(3)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 58I(7)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 58J Time frames applying under first set of national planning standards

(1) In the case of the first set of national planning standards, if a process provided by Schedule 1 is required, a local authority must make any amendments required not later than the fifth anniversary of the date on which the first set is notified in the *Gazette* under section 58K, unless—

(a) a different time is specified in the first set; or

(b) subsection (3) applies.

(2) Subsection (3) applies if—

(a) a local authority has notified a proposed policy statement or plan before the first set of national planning standards is notified in the *Gazette*; and

(b) a process provided by Schedule 1 is required.

(3) If this subsection applies, the local authority must make the amendments required—

(a) within the time specified in the national planning standard; or

(b) if no time is specified, not later than 5 years after the date on which the proposed policy statement or plan becomes operative.

Section 58J: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Publication of documents*

Heading: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58K Obligation to publish documents

Not later than 1 year after the date on which the approval of the first set of national planning standards is notified in the *Gazette*, a local authority must make its documents publicly available, free of charge on a single searchable Internet site, as they relate to a particular district or region.

Section 58K: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## Subpart 2—Mana Whakahono a Rohe: Iwi participation arrangements

Subpart 2: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58L Definitions

In this subpart and Schedule 1,—

**area of interest** means the area that the iwi and hapū represented by an iwi authority identify as their traditional rohe

**initiating iwi authority** has the meaning given in section 58O(1)

**iwi participation legislation** means legislation (other than this Act), including any legislation listed in Schedule 3 of the Treaty of Waitangi Act 1975, that provides a role for iwi or hapū in processes under this Act

**Mana Whakahono a Rohe** means an iwi participation arrangement entered into under this subpart

**participating authorities** has the meaning given in section 58O(5)

**participating iwi authorities** means the iwi authorities that—

(a) have agreed to participate in a Mana Whakahono a Rohe; and

(b) have agreed the order in which negotiations are to be conducted

**relevant iwi authority** means an iwi authority whose area of interest overlaps with, or is adjacent to, the area of interest of an initiating iwi authority

**relevant local authority** means a local authority whose area of interest overlaps with, or is adjacent to, the area of interest represented by the initiating iwi authority.

Section 58L: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58L **relevant local authority**: amended, on 24 October 2019, by section 127 of the Statutes Amendment Act 2019 (2019 No 56).

*Purpose and guiding principles*

Heading: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58M Purpose of Mana Whakahono a Rohe

The purpose of a Mana Whakahono a Rohe is—

(a) to provide a mechanism for iwi authorities and local authorities to discuss, agree, and record ways in which tangata whenua may, through their iwi authorities, participate in resource management and decision-making processes under this Act; and

(b) to assist local authorities to comply with their statutory duties under this Act, including through the implementation of sections 6(e), 7(a), and 8.

Section 58M: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58N Guiding principles

In initiating, developing, and implementing a Mana Whakahono a Rohe, the participating authorities must use their best endeavours—

(a) to achieve the purpose of the Mana Whakahono a Rohe in an enduring manner:

(b) to enhance the opportunities for collaboration amongst the participating authorities, including by promoting—

(i) the use of integrated processes:

(ii) co-ordination of the resources required to undertake the obligations and responsibilities of the parties to the Mana Whakahono a Rohe:

(c) in determining whether to proceed to negotiate a joint or multi-party Mana Whakahono a Rohe, to achieve the most effective and efficient means of meeting the statutory obligations of the participating authorities:

(d) to work together in good faith and in a spirit of co-operation:

(e) to communicate with each other in an open, transparent, and honest manner:

(f) to recognise and acknowledge the benefit of working together by sharing their respective vision and expertise:

(g) to commit to meeting statutory time frames and minimise delays and costs associated with the statutory processes:

(h) to recognise that a Mana Whakahono a Rohe under this subpart does not limit the requirements of any relevant iwi participation legislation or the agreements associated with that legislation.

Section 58N: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Initiating Mana Whakahono a Rohe*

Heading: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58O Initiation of Mana Whakahono a Rohe

*Invitation from 1 or more iwi authorities*

(1) At any time other than in the period that is 90 days before the date of a triennial election under the Local Electoral Act 2001, 1 or more iwi authorities representing tangata whenua (the **initiating iwi authorities**) may invite 1 or more relevant local authorities in writing to enter into a Mana Whakahono a Rohe with the 1 or more iwi authorities.

*Obligations of local authorities that receive invitation*

(2) As soon as is reasonably practicable after receiving an invitation under subsection (1), the local authorities—

(a) may advise any relevant iwi authorities and relevant local authorities that the invitation has been received; and

(b) must convene a hui or meeting of the initiating iwi authority and any iwi authority or local authority identified under paragraph (a) (the **parties**) that wishes to participate to discuss how they will work together to develop a Mana Whakahono a Rohe under this subpart.

(3) The hui or meeting required by subsection (2)(b) must be held not later than 60 working days after the invitation sent under subsection (1) is received, unless the parties agree otherwise.

(4) The purpose of the hui or meeting is to provide an opportunity for the iwi authorities and local authorities concerned to discuss and agree on—

(a) the process for negotiation of 1 or more Mana Whakahono a Rohe; and

(b) which parties are to be involved in the negotiations; and

(c) the times by which specified stages of the negotiations must be concluded.

(5) The iwi authorities and local authorities that are able to agree at the hui or meeting how they will develop a Mana Whakahono a Rohe (the **participating authorities**) must proceed to negotiate the terms of the Mana Whakahono a Rohe in accordance with that agreement and this subpart.

(6) If 1 or more local authorities in an area are negotiating a Mana Whakahono a Rohe and a further invitation is received under subsection (1), the participating iwi authorities and relevant local authorities may agree on the order in which they negotiate the Mana Whakahono a Rohe.

*Other matters relevant to Mana Whakahono a Rohe*

(7) If an iwi authority and a local authority have at any time entered into a relationship agreement, to the extent that the agreement relates to resource management matters, the parties to that agreement may, by written agreement, treat that agreement as if it were a Mana Whakahono a Rohe entered into under this subpart.

(8) The participating authorities must take account of the extent to which resource management matters are included in any iwi participation legislation and seek to minimise duplication between the functions of the participating authorities under that legislation and those arising under the Mana Whakahono a Rohe.

(9) Nothing in this subpart prevents a local authority from commencing, continuing, or completing any process under the Act while waiting for a response from, or negotiating a Mana Whakahono a Rohe with, 1 or more iwi authorities.

Section 58O: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58P Other opportunities to initiate Mana Whakahono a Rohe

*Later initiation by iwi authority*

(1) An iwi authority that, at the time of receiving an invitation to a meeting or hui under section 58O(2)(b), does not wish to participate in negotiating a Mana Whakahono a Rohe, or withdraws from negotiations before a Mana Whakahono a Rohe is agreed, may participate in, or initiate, a Mana Whakahono a

Rohe at any later time (other than within the period that is 90 days before a triennial election under the Local Electoral Act 2001).

(2) If a Mana Whakahono a Rohe exists and another iwi authority in the same area as the initiating iwi wishes to initiate a Mana Whakahono a Rohe under section 58O(1), that iwi authority must first consider joining the existing Mana Whakahono a Rohe.

(3) The provisions of this subpart apply to any initiation under subsection (1).

*Initiation by local authority*

(4) A local authority may initiate a Mana Whakahono a Rohe with an iwi authority or with hapū.

(5) The local authority and iwi authority or hapū concerned must agree on—

(a) the process to be adopted; and

(b) the time period within which the negotiations are to be concluded; and

(c) how the Mana Whakahono a Rohe is to be implemented after negotiations are concluded.

(6) If 1 or more hapū are invited to enter a Mana Whakahono a Rohe under subsection (4), the provisions of this subpart apply as if the references to an iwi authority were references to 1 or more hapū, to the extent that the provisions relate to the contents of a Mana Whakahono a Rohe (*see* sections 58M, 58N, 58R, 58T, and 58U).

Section 58P: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58Q Time frame for concluding Mana Whakahono a Rohe

If an invitation is initiated under section 58O(1), the participating authorities must conclude a Mana Whakahono a Rohe within—

(a) 18 months after the date on which the invitation is received; or

(b) any other period agreed by all the participating authorities.

Section 58Q: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Contents*

Heading: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58R Contents of Mana Whakahono a Rohe

(1) A Mana Whakahono a Rohe must—

(a) be recorded in writing; and

(b) identify the participating authorities; and

(c) record the agreement of the participating authorities about—

(i) how an iwi authority may participate in the preparation or change of a policy statement or plan, including the use of any of the pre-notification or streamlined planning processes under Schedule 1; and

(ii) how the participating authorities will undertake consultation requirements, including the requirements of section 34A(1A) and clause 4A of Schedule 1; and

(iii) how the participating authorities will work together to develop and agree on methods for monitoring under this Act; and

(iv) how the participating authorities will give effect to the requirements of any relevant iwi participation legislation, or of any agreements associated with, or entered into under, that legislation; and

(v) a process for identifying and managing conflicts of interest; and

(vi) the process that the parties will use for resolving disputes about the implementation of the Mana Whakahono a Rohe, including the matters described in subsection (2).

(2) The dispute resolution process recorded under subsection (1)(c)(vi) must—

(a) set out the extent to which the outcome of a dispute resolution process may constitute an agreement—

(i) to alter or terminate a Mana Whakahono a Rohe (*see* subsection (5)):

(ii) *[Repealed]*

(iii) to complete the review of a local authority's policies and processes (to ensure that they are consistent with a Mana Whakahono a Rohe) at a later date (*see* section 58T(2)):

(iv) jointly to review the effectiveness of a Mana Whakahono a Rohe at a later date (*see* section 58T(3)):

(v) to undertake any additional reporting (*see* section 58T(5)); and

(b) require each of the participating authorities to bear its own costs for any dispute resolution process undertaken.

(3) The dispute resolution process must not require a local authority to suspend commencing, continuing, or completing any process under the Act while the dispute resolution process is in contemplation or is in progress.

(4) A Mana Whakahono a Rohe may also specify—

(a) how a local authority is to consult or notify an iwi authority on resource consent matters, where the Act provides for consultation or notification:

(b) the circumstances in which an iwi authority may be given limited notification as an affected party:

(c) any arrangement relating to other functions, duties, or powers under this Act:

(d) if there are 2 or more iwi authorities participating in a Mana Whakahono a Rohe, how those iwi authorities will work collectively together to participate with local authorities:

(e) whether a participating iwi authority has delegated to a person or group of persons (including hapū) a role to participate in particular processes under this Act.

(5) Unless the participating authorities agree,—

(a) the contents of a Mana Whakahono a Rohe must not be altered; and

(b) a Mana Whakahono a Rohe must not be terminated.

(6) If 2 or more iwi authorities collectively have entered into a Mana Whakahono a Rohe with a local authority, any 1 of the iwi authorities, if seeking to amend the contents of the Mana Whakahono a Rohe, must negotiate with the local authority for that purpose rather than seek to enter into a new Mana Whakahono a Rohe.

Section 58R: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 58R(1)(c)(i): amended, on 1 July 2020, by section 16 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 58R(2)(a)(ii): repealed, on 24 October 2019, by section 128(1) of the Statutes Amendment Act 2019 (2019 No 56).

Section 58R(2)(a)(iii): amended, on 24 October 2019, by section 128(2) of the Statutes Amendment Act 2019 (2019 No 56).

### 58S Resolution of disputes that arise in course of negotiating Mana Whakahono a Rohe

(1) This section applies if a dispute arises among participating authorities in the course of negotiating a Mana Whakahono a Rohe.

(2) The participating authorities—

(a) may by agreement undertake a binding process of dispute resolution; but

(b) if they do not reach agreement on a binding process, must undertake a non-binding process of dispute resolution.

(3) Whether the participating authorities choose a binding process or a non-binding process, each authority must—

(a) jointly appoint an arbitrator or a mediator; and

(b) meet its own costs of the process.

(4) If the dispute remains unresolved after a non-binding process has been undertaken, the participating authorities may individually or jointly seek the assistance of the Minister.

(5) The Minister, with a view to assisting the participating authorities to resolve the dispute and conclude a Mana Whakahono a Rohe, may—

(a) appoint, and meet the costs of, a Crown facilitator:

(b) direct the participating authorities to use a particular alternative dispute resolution process for that purpose.

Section 58S: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58T Review and monitoring

(1) A local authority that enters into a Mana Whakahono a Rohe under this subpart must review its policies and processes to ensure that they are consistent with the Mana Whakahono a Rohe.

(2) The review required by subsection (1) must be completed not later than 6 months after the date of the Mana Whakahono a Rohe, unless a later date is agreed by the participating authorities.

(3) Every sixth anniversary after the date of a Mana Whakahono a Rohe, or at any other time by agreement, the participating authorities must jointly review the effectiveness of the Mana Whakahono a Rohe, having regard to the purpose of a Mana Whakahono a Rohe stated in section 58M and the guiding principles set out in section 58N.

(4) The obligations under this section are in addition to the obligations of a local authority under—

(a) section 27 (the provision of information to the Minister):

(b) section 35 (monitoring and record keeping).

(5) Any additional reporting may be undertaken by agreement of the participating authorities.

Section 58T: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 58U Relationship with iwi participation legislation

A Mana Whakahono a Rohe does not limit any relevant provision of any iwi participation legislation or any agreement under that legislation.

Section 58U: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## Subpart 3—Local authority policy statements and plans

Subpart 3 heading: inserted, on 19 April 2017, by section 51 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### *Regional policy statements*

### 59 Purpose of regional policy statements

The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

### 60 Preparation and change of regional policy statements

(1) There shall at all times be for each region 1 regional policy statement prepared by the regional council in the manner set out in Schedule 1.

(2) A regional policy statement may be changed in the manner set out in Schedule 1, at the instigation of a Minister of the Crown, the regional council, or any territorial authority within or partly within the region.

### 61 Matters to be considered by regional council (policy statements)

(1) A regional council must prepare and change its regional policy statement in accordance with—

(a) its functions under section 30; and

(b) the provisions of Part 2; and

(c) its obligation (if any) to prepare an evaluation report in accordance with section 32; and

(d) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and

(da) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and

(e) any regulations.

(2) In addition to the requirements of section 62(3), when preparing or changing a regional policy statement, the regional council shall have regard to—

(a) any—

(i) management plans and strategies prepared under other Acts; and

(ii) *[Repealed]*

(iia) relevant entry on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and

(iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including

regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and

(iv) *[Repealed]*

to the extent that their content has a bearing on resource management issues of the region; and

(b) the extent to which the regional policy statement needs to be consistent with the policy statements and plans of adjacent regional councils; and

(c) the extent to which the regional policy statement needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and

(2A) When a regional council is preparing or changing a regional policy statement, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:

(a) the council must take into account any relevant planning document recognised by an iwi authority; and

(b) in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—

(i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and

(ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

(3) In preparing or changing any regional policy statement, a regional council must not have regard to trade competition or the effects of trade competition.

Section 61 heading: amended, on 17 December 1997, by section 11 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 61(1): replaced, on 3 December 2013, for all purposes, by section 76 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 61(1)(da): inserted, on 19 April 2017, by section 52(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 61(2): amended, on 19 April 2017, by section 52(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 61(2)(a)(ii): repealed, on 1 August 2003, by section 24(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 61(2)(a)(iia): inserted, on 1 July 1993, by section 118(2) of the Historic Places Act 1993 (1993 No 38).

Section 61(2)(a)(iia): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 61(2)(a)(iii): replaced, on 1 October 1996, by section 316(1) of the Fisheries Act 1996 (1996 No 88).

Section 61(2)(a)(iv): repealed, on 1 August 2003, by section 24(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 61(2)(b): amended, on 28 June 2013, by section 176(2) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 61(2)(c): inserted, on 28 June 2013, by section 176(2) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 61(2A): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 61(3): inserted, on 17 December 1997, by section 11 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 61(3): amended, on 1 October 2009, by section 55 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 62 Contents of regional policy statements

(1) A regional policy statement must state—

(a) the significant resource management issues for the region; and

(b) the resource management issues of significance to iwi authorities in the region; and

(c) the objectives sought to be achieved by the statement; and

(d) the policies for those issues and objectives and an explanation of those policies; and

(e) the methods (excluding rules) used, or to be used, to implement the policies; and

(f) the principal reasons for adopting the objectives, policies, and methods of implementation set out in the statement; and

(g) the environmental results anticipated from implementation of those policies and methods; and

(h) the processes to be used to deal with issues that cross local authority boundaries, and issues between territorial authorities or between regions; and

(i) the local authority responsible in the whole or any part of the region for specifying the objectives, policies, and methods for the control of the use of land—

(i) to avoid or mitigate natural hazards or any group of hazards; and

(ii) *[Repealed]*

(iii) to maintain indigenous biological diversity; and

(j) the procedures used to monitor the efficiency and effectiveness of the policies or methods contained in the statement; and

(k) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.

(2) If no responsibilities are specified in the regional policy statement for functions described in subsection (1)(i)(i) or (ii), the regional council retains primary responsibility for the function in subsection (1)(i)(i) and the territorial authorities of the region retain primary responsibility for the function in subsection (1)(i)(ii).

(3) A regional policy statement must not be inconsistent with any water conservation order and must give effect to a national policy statement, a New Zealand coastal policy statement, or a national planning standard.

Section 62: replaced, on 1 August 2003, by section 25 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 62(1)(b): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 62(1)(i)(ii): repealed, on 19 April 2017, by section 53(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 62(3): amended, on 19 April 2017, by section 53(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Regional plans*

### 63 Purpose of regional plans

(1) The purpose of the preparation, implementation, and administration of regional plans is to assist a regional council to carry out any of its functions in order to achieve the purpose of this Act.

(2) Without limiting subsection (1), the purpose of the preparation, implementation, and administration of regional coastal plans is to assist a regional council, in conjunction with the Minister of Conservation, to achieve the purpose of this Act in relation to the coastal marine area of that region.

### 64 Preparation and change of regional coastal plans

(1) There shall at all times be, for all the coastal marine area of a region, 1 or more regional coastal plans prepared in the manner set out in Schedule 1.

(2) A regional coastal plan may form part of a regional plan where it is considered appropriate in order to promote the integrated management of a coastal marine area and any related part of the coastal environment.

(3) Where a regional coastal plan forms part of a regional plan, the Minister of Conservation shall approve only that part which relates to the coastal marine area.

(4) A regional coastal plan may be changed in the manner set out in Schedule 1.

Section 64(1): replaced, on 7 July 1993, by section 35 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 64(1): amended, on 1 October 2011, by section 15 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 64(4): amended, on 1 October 2011, by section 15 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 64A Imposition of coastal occupation charges

(1) Unless a regional coastal plan or proposed regional coastal plan already addresses coastal occupation charges, in preparing or changing a regional coastal plan or proposed regional coastal plan, a regional council must consider, after having regard to—

(a) the extent to which public benefits from the coastal marine area are lost or gained; and

(b) the extent to which private benefit is obtained from the occupation of the coastal marine area,—

whether or not a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included.

(2) Where the regional council considers that a coastal occupation charging regime should not be included, a statement to that effect must be included in the regional coastal plan.

(3) Where the regional council considers that a coastal occupation charging regime should be included, the council must, after having regard to the matters set out in paragraphs (a) and (b) of subsection (1), specify in the regional coastal plan—

(a) the circumstances when a coastal occupation charge will be imposed; and

(b) the circumstances when the regional council will consider waiving (in whole or in part) a coastal occupation charge; and

(c) the level of charges to be paid or the manner in which the charge will be determined; and

(d) in accordance with subsection (5), the way the money received will be used.

(4) No coastal occupation charge may be imposed on any person occupying the coastal marine area unless the charge is provided for in the regional coastal plan.

(4A) A coastal occupation charge must not be imposed on a protected customary rights group or customary marine title group exercising a right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

(5) Any money received by the regional council from a coastal occupation charge must be used only for the purpose of promoting the sustainable management of the coastal marine area.

Section 64A: inserted, on 17 December 1997, by section 12 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 64A(1): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 64A(4A): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 65 Preparation and change of other regional plans

(1) A regional council may prepare a regional plan for the whole or part of its region for any function specified in section 30(1)(c), (ca), (e), (f), (fa), (fb), (g), or (ga).

(1A) A regional council given a direction under section 25A(1) must—

(a) prepare a regional plan that implements the direction; or

(b) prepare a change to its regional plan in a way that implements the direction; or

(c) prepare a variation to its regional plan in a way that implements the direction.

(2) A plan must be prepared in accordance with Schedule 1.

(3) Without limiting the power of a regional council to prepare a regional plan at any time, a regional council shall consider the desirability of preparing a regional plan whenever any of the following circumstances or considerations arise or are likely to arise:

(a) any significant conflict between the use, development, or protection of natural and physical resources or the avoidance or mitigation of such conflict:

(b) any significant need or demand for the protection of natural and physical resources or of any site, feature, place, or area of regional significance:

(c) any risks from natural hazards:

(d) any foreseeable demand for or on natural and physical resources:

(e) any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources:

(f) the restoration or enhancement of any natural and physical resources in a deteriorated state or the avoidance or mitigation of any such deterioration:

(g) the implementation of a national policy statement or New Zealand coastal policy statement:

(h) any use of land or water that has actual or potential adverse effects on soil conservation or air quality or water quality:

(i) any other significant issue relating to any function of the regional council under this Act.

(4) Any person may request a regional council to prepare or change a regional plan in the manner set out in Part 2 of Schedule 1.

(4A) A request for a plan change may be made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977 if the regional council—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the request and application may be made jointly.

(5) A regional plan may be changed in the manner set out in the relevant Part of Schedule 1.

(6) A regional council must amend a proposed regional plan or regional plan to give effect to a regional policy statement, if—

(a) the statement contains a provision to which the plan does not give effect; and

(b) one of the following occurs:

(i) the statement is reviewed under section 79 and not changed or replaced; or

(ii) the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative; or

(iii) the statement is changed or varied and becomes operative.

(7) A regional council must comply with subsection (6)—

(a) within the time specified in the statement, if a time is specified; or

(b) as soon as reasonably practicable, in any other case.

Section 65(1): replaced, on 1 August 2003, by section 26 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 65(1): amended, on 10 August 2005, by section 39(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 65(1A): inserted, on 10 August 2005, by section 39(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 65(2): replaced, on 1 August 2003, by section 26 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 65(3)(c): replaced, on 19 April 2017, by section 54(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 65(4): amended, on 19 April 2017, by section 54(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 65(4A): inserted, on 19 April 2017, by section 188(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 65(5): amended, on 19 April 2017, by section 54(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 65(6): inserted, on 10 August 2005, by section 39(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 65(7): inserted, on 10 August 2005, by section 39(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 65(7): amended, on 19 April 2017, by section 54(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 66 Matters to be considered by regional council (plans)

(1) A regional council must prepare and change any regional plan in accordance with—

(a) its functions under section 30; and

(b) the provisions of Part 2; and

(c) a direction given under section 25A(1); and

(d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and

(e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and

(ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and

(f) any regulations.

(2) In addition to the requirements of section 67(3) and (4), when preparing or changing any regional plan, the regional council shall have regard to—

(a) any proposed regional policy statement in respect of the region; and

(b) the Crown's interests in the coastal marine area; and

(c) any—

(i) management plans and strategies prepared under other Acts; and

(ii) *[Repealed]*

(iia) relevant entry on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and

(iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and

(iv) *[Repealed]*

(v) relevant project area and project objectives (as those terms are defined in section 9 of the Urban Development Act 2020), if section 98 of that Act applies,—

to the extent that their content has a bearing on resource management issues of the region; and

(d) the extent to which the regional plan needs to be consistent with the regional policy statements and plans, or proposed regional policy statements and proposed plans, of adjacent regional councils; and

(e) to the extent to which the regional plan needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and

(2A) When a regional council is preparing or changing a regional plan, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:

(a) the council must take into account any relevant planning document recognised by an iwi authority; and

(b) in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—

(i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and

(ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

(3) In preparing or changing any regional plan, a regional council must not have regard to trade competition or the effects of trade competition.

Section 66 heading: amended, on 17 December 1997, by section 13 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 66(1): replaced, on 3 December 2013, for all purposes, by section 77 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 66(1)(ea): inserted, on 19 April 2017, by section 55 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 66(2): amended, on 10 August 2005, by section 40(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 66(2)(b): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 66(2)(c)(ii): repealed, on 1 August 2003, by section 27(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 66(2)(c)(iia): inserted, on 1 July 1993, by section 118(2) of the Historic Places Act 1993 (1993 No 38).

Section 66(2)(c)(iia): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 66(2)(c)(iii): replaced, on 1 October 1996, by section 316(1) of the Fisheries Act 1996 (1996 No 88).

Section 66(2)(c)(iv): repealed, on 1 August 2003, by section 27(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 66(2)(c)(v): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

Section 66(2)(d): amended, on 28 June 2013, by section 176(3) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 66(2)(e): inserted, on 28 June 2013, by section 176(3) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 66(2A): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 66(3): inserted, on 17 December 1997, by section 13 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 66(3): amended, on 1 October 2009, by section 56 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 67 Contents of regional plans

(1) A regional plan must state—

(a) the objectives for the region; and

(b) the policies to implement the objectives; and

(c) the rules (if any) to implement the policies.

(2) A regional plan may state—

(a) the issues that the plan seeks to address; and

(b) the methods, other than rules, for implementing the policies for the region; and

(c) the principal reasons for adopting the policies and methods; and

(d) the environmental results expected from the policies and methods; and

(e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and

(f) the processes for dealing with issues—

(i) that cross local authority boundaries; or

(ii) that arise between territorial authorities; or

(iii) that arise between regions; and

(g) the information to be included with an application for a resource consent; and

(h) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.

(3) A regional plan must give effect to—

(a) any national policy statement; and

(b) any New Zealand coastal policy statement; and

(ba) a national planning standard; and

(c) any regional policy statement.

(4) A regional plan must not be inconsistent with—

(a) a water conservation order; or

(b) any other regional plan for the region; or

(c) *[Repealed]*

(5) A regional plan must record how a regional council has allocated a natural resource under section 30(1)(fa) or (fb) and (4), if the council has done so.

(6) A regional plan may incorporate material by reference under Part 3 of Schedule 1.

Section 67: replaced, on 10 August 2005, by section 41 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 67(3)(ba): inserted, on 19 April 2017, by section 56 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 67(4)(c): repealed, on 1 October 2011, by section 16 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## 68 Regional rules

(1) A regional council may, for the purpose of—

(a) carrying out its functions under this Act (other than those described in paragraphs (a) and (b) of section 30(1)); and

(b) achieving the objectives and policies of the plan,—

include rules in a regional plan.

(2) Every such rule shall have the force and effect of a regulation in force under this Act but, to the extent that any such rule is inconsistent with any such regulation, the regulation shall prevail.

(2A) Rules may be made under this section for the protection of other property (as defined in section 7 of the Building Act 2004) from the effects of surface water, which require persons undertaking building work to achieve performance criteria additional to, or more restrictive than, those specified in the building code as defined in section 7 of the Building Act 2004.

(3) In making a rule, the regional council shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

(3A) *[Repealed]*

(3B) *[Repealed]*

(4) A rule may specify an activity as a restricted coastal activity only if the rule is in a regional coastal plan and the Minister of Conservation has required the activity to be so specified on the grounds that the activity—

(a) has or is likely to have significant or irreversible adverse effects on a coastal marine area; or

(b) occurs or is likely to occur in an area having significant conservation value.

(5) A rule may—

(a) apply throughout the region or a part of the region:

(b) make different provision for—

(i) different parts of the region; or

(ii) different classes of effects arising from an activity:

(c) apply all the time or for stated periods or seasons:

(d) be specific or general in its application:

(e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.

(6) *[Repealed]*

(7) Where a regional plan includes a rule relating to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water, the plan may state—

(a) whether the rule shall affect, under section 130, the exercise of existing resource consents for activities which contravene the rule; and

(b) that the holders of resource consents may comply with the terms of the rule, or rules, in stages or over specified periods.

(8) Where regulations have been made under section 360(1)(ha) deeming rules to be included in a regional coastal plan or proposed regional coastal plan, the relevant regional council shall, as soon as reasonably practicable after the date on which the regulations are made, revoked, or cease to apply to its region,—

(a) give public notice of the fact that such regulations have been made or revoked or have ceased to apply, as the case may be, and in such detail as the council considers appropriate, generally describe the nature of any rules deemed to be included in the plan or proposed plan by those regulations; and

(b) ensure that a copy of any regulations deeming rules to be included in the plan or proposed plan is annexed to, and appropriate annotations are made in, every copy of that plan or proposed plan that is under the regional council's control.

(9) Notwithstanding anything to the contrary in this section, no rule of a regional coastal plan shall authorise as a permitted activity any of the following activities to which section 15A applies:

(a) the dumping in the coastal marine area of any waste or other matter from any ship, aircraft, or offshore installation:

(b) the dumping in the coastal marine area of any ship, aircraft, or offshore installation:

(c) the incineration in the coastal marine area of any waste or other matter in any marine incineration facility.

(10) Subject to subsection (9), sections 69 and 70(2) shall, with all necessary modifications, apply to the inclusion of rules in regional coastal plans about the

dumping of waste or other matter as if every reference in those provisions to a discharge of a contaminant included a reference to a dumping of waste or other matter.

(11) A rule may exempt from its coverage an area or class of contaminated land if the rule—

(a) provides how the significant adverse effects on the environment that the hazardous substance has are to be remedied or mitigated; or

(b) provides how the significant adverse effects on the environment that the hazardous substance is reasonably likely to have are to be avoided; or

(c) treats the land as not contaminated for purposes stated in the rule.

Section 68(1): amended, on 1 August 2003, by section 29(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 68(2A): replaced, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 68(3): amended, on 1 August 2003, by section 29(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 68(3A): repealed, on 1 August 2003, by section 29(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 68(3B): repealed, on 1 August 2003, by section 29(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 68(4): amended, on 1 August 2003, by section 29(4) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 68(5)(e): replaced, on 1 August 2003, by section 29(5) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 68(6): repealed, on 17 December 1997, by section 14 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 68(7): inserted, on 7 July 1993, by section 37(4) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 68(8): inserted, on 20 August 1998, by section 10 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 68(9): inserted, on 20 August 1998, by section 10 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 68(10): inserted, on 20 August 1998, by section 10 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 68(11): inserted, on 10 August 2005, by section 42 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 68(11): amended, on 1 October 2009, by section 57 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 68A Regional coastal plan not to authorise aquaculture activities in coastal marine area as permitted activities

(1) Despite section 68, after the commencement of section 17 of the Resource Management Amendment Act (No 2) 2011 no rule may be included in a regional coastal plan which authorises as a permitted activity any aquaculture activity in the coastal marine area.

(2) If, immediately before the commencement of section 17 of the Resource Management Amendment Act (No 2) 2011, a regional coastal plan contains a rule that authorises as a permitted activity any part of an aquaculture activity in the coastal marine area—

(a) any person may act, or continue to act, in accordance with the rule until any alteration of the rule has legal effect; but

(b) a regional council must, as soon as is reasonably practicable and not later than 2 years after the commencement of section 17 of the Resource Management Amendment Act (No 2) 2011, initiate a review of the rule under section 79 and propose to alter any provisions necessary to ensure compliance with subsection (1), in the manner set out in Part 1 of Schedule 1 and this Part.

Section 68A: replaced, on 1 October 2011, by section 17 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 69 Rules relating to water quality

(1) Where a regional council—

(a) provides in a plan that certain waters are to be managed for any purpose described in respect of any of the classes specified in Schedule 3; and

(b) includes rules in the plan about the quality of water in those waters,—

the rules shall require the observance of the standards specified in that schedule in respect of the appropriate class or classes unless, in the council's opinion, those standards are not adequate or appropriate in respect of those waters in which case the rules may state standards that are more stringent or specific.

(2) Where a regional council provides in a plan that certain waters are to be managed for any purpose for which the classes specified in Schedule 3 are not adequate or appropriate, the council may state in the plan new classes and standards about the quality of water in those waters.

(3) Subject to the need to allow for reasonable mixing of a discharged contaminant or water, a regional council shall not set standards in a plan which result, or may result, in a reduction of the quality of the water in any waters at the time of the public notification of the proposed plan unless it is consistent with the purpose of this Act to do so.

(4) On and from the commencement of this subsection, Schedule 3 ceases to be applicable to fresh water.

Section 69(4): inserted, on 19 April 2017, by section 57 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 70 Rules about discharges

(1) Before a regional council includes in a regional plan a rule that allows as a permitted activity—

(a) a discharge of a contaminant or water into water; or

(b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water,—

the regional council shall be satisfied that none of the following effects are likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

(c) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(d) any conspicuous change in the colour or visual clarity:

(e) any emission of objectionable odour:

(f) the rendering of fresh water unsuitable for consumption by farm animals:

(g) any significant adverse effects on aquatic life.

(2) Before a regional council includes in a regional plan a rule requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant, the regional council shall be satisfied that, having regard to—

(a) the nature of the discharge and the receiving environment; and

(b) other alternatives, including a rule requiring the observance of minimum standards of quality of the environment,—

the inclusion of that rule in the plan is the most efficient and effective means of preventing or minimising those adverse effects on the environment.

*Rules relating to discharge of greenhouse gases*

Heading: inserted, on 2 March 2004, by section 6 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

### 70A Application to climate change of rules relating to discharge of greenhouse gases

Despite section 68(3), when making a rule to control the discharge into air of greenhouse gases under its functions under section 30(1)(d)(iv) or (f), a regional council must not have regard to the effects of such a discharge on climate change, except to the extent that the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases, either—

(a) in absolute terms; or

(b) relative to the use and development of non-renewable energy.

Section 70A: inserted, on 2 March 2004, by section 6 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

### 70B Implementation of national environmental standards

If a national environmental standard is made to control the effects on climate change of the discharge into air of greenhouse gases, a regional council may make rules that are necessary to implement the standard, provided the rules are no more or less restrictive than the standard.

Section 70B: inserted, on 2 March 2004, by section 6 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 70B heading: amended, on 10 August 2005, by section 43(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 70B: amended, on 10 August 2005, by section 43(2)(a) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 70B: amended, on 10 August 2005, by section 43(2)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

### 71 Rules about esplanade reserves on reclamation

*[Repealed]*

Section 71: repealed, on 7 July 1993, by section 38 of the Resource Management Amendment Act 1993 (1993 No 65).

## *District plans*

### 72 Purpose of district plans

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

### 73 Preparation and change of district plans

(1) There must at all times be 1 district plan for each district, prepared in the manner set out in the relevant Part of Schedule 1.

(1A) A district plan may be changed in the manner set out in the relevant Part of Schedule 1.

(1B) A territorial authority given a direction under section 25A(2) must prepare a change to its district plan in a way that implements the direction.

(2) Any person may request a territorial authority to change a district plan, and the plan may be changed in the manner set out in Part 2 or 5 of Schedule 1.

(2A) A request for a plan change may be made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977 if the territorial authority—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the request and application may be made jointly.

(3) A district plan may be prepared in territorial sections.

(4) A local authority must amend a proposed district plan or district plan to give effect to a regional policy statement, if—

(a) the statement contains a provision to which the plan does not give effect; and

(b) one of the following occurs:

(i) the statement is reviewed under section 79 and not changed or replaced; or

(ii) the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative; or

(iii) the statement is changed or varied and becomes operative.

(5) A local authority must comply with subsection (4)—

(a) within the time specified in the statement, if a time is specified; or

(b) as soon as reasonably practicable, in any other case.

Section 73(1): replaced, on 19 April 2017, by section 58(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 73(1A): replaced, on 19 April 2017, by section 58(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 73(1B): inserted, on 10 August 2005, by section 44(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 73(2): amended, on 19 April 2017, by section 58(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 73(2A): inserted, on 19 April 2017, by section 188(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 73(4): inserted, on 10 August 2005, by section 44(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 73(5): inserted, on 10 August 2005, by section 44(2) of the Resource Management Amendment Act 2005 (2005 No 87).

### 74 Matters to be considered by territorial authority

(1) A territorial authority must prepare and change its district plan in accordance with—

(a) its functions under section 31; and

(b) the provisions of Part 2; and

(c) a direction given under section 25A(2); and

(d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and

(e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and

(ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and

(f) any regulations.

(2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—

(a) any—

(i) proposed regional policy statement; or

(ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and

(b) any—

(i) management plans and strategies prepared under other Acts; and

(ii) *[Repealed]*

(iia) relevant entry on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and

(iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and

(iv) relevant project area and project objectives (as those terms are defined in section 9 of the Urban Development Act 2020), if section 98 of that Act applies,—

to the extent that their content has a bearing on resource management issues of the district; and

(c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.

Section 74(1): replaced, on 3 December 2013, for all purposes, by section 78 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 74(1)(ea): inserted, on 19 April 2017, by section 59 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 74(2): amended, on 10 August 2005, by section 45(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 74(2)(a): replaced, on 17 December 1997, by section 15(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 74(2)(b)(ii): repealed, on 1 August 2003, by section 31(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 74(2)(b)(iia): inserted, on 1 July 1993, by section 118(2) of the Historic Places Act 1993 (1993 No 38).

Section 74(2)(b)(iia): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 74(2)(b)(iii): replaced, on 1 October 1996, by section 316(1) of the Fisheries Act 1996 (1996 No 88).

Section 74(2)(b)(iv): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

Section 74(2A): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 74(3): inserted, on 17 December 1997, by section 15(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 74(3): amended, on 1 October 2009, by section 58 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 75 Contents of district plans

(1) A district plan must state—

(a) the objectives for the district; and

(b) the policies to implement the objectives; and

(c) the rules (if any) to implement the policies.

(2) A district plan may state—

(a) the significant resource management issues for the district; and

(b) the methods, other than rules, for implementing the policies for the district; and

(c) the principal reasons for adopting the policies and methods; and

(d) the environmental results expected from the policies and methods; and

(e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and

(f) the processes for dealing with issues that cross territorial authority boundaries; and

(g) the information to be included with an application for a resource consent; and

(h) any other information required for the purpose of the territorial authority's functions, powers, and duties under this Act.

(3) A district plan must give effect to—

(a) any national policy statement; and

(b) any New Zealand coastal policy statement; and

(ba) a national planning standard; and

(c) any regional policy statement.

(4) A district plan must not be inconsistent with—

(a) a water conservation order; or

(b) a regional plan for any matter specified in section 30(1).

(5) A district plan may incorporate material by reference under Part 3 of Schedule 1.

Section 75: replaced, on 10 August 2005, by section 46 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 75(3)(ba): inserted, on 19 April 2017, by section 60 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 76 District rules

(1) A territorial authority may, for the purpose of—

(a) carrying out its functions under this Act; and

(b) achieving the objectives and policies of the plan,—

include rules in a district plan.

(2) Every such rule shall have the force and effect of a regulation in force under this Act but, to the extent that any such rule is inconsistent with any such regulation, the regulation shall prevail.

(2A) Rules may be made under this section, for the protection of other property (as defined in section 7 of the Building Act 2004) from the effects of surface water, which require persons undertaking building work to achieve performance criteria additional to, or more restrictive than, those specified in the building code as defined in section 7 of the Building Act 2004.

(3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.

(3A) *[Repealed]*

(3B) *[Repealed]*

(4) A rule may—

(a) apply throughout a district or a part of a district:

(b) make different provision for—

(i) different parts of the district; or

(ii) different classes of effects arising from an activity:

(c) apply all the time or for stated periods or seasons:

(d) be specific or general in its application:

(e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.

(4A) A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—

(a) the tree or trees are described; and

(b) the allotment is specifically identified by street address or legal description of the land, or both.

(4B) A rule may prohibit or restrict the felling, trimming, damaging, or removal of trees on 2 or more urban environment allotments only if—

(a) the allotments are adjacent to each other; and

(b) the trees on the allotments together form a group of trees; and

(c) in a schedule to the plan,—

(i) the group of trees is described; and

(ii) the allotments are specifically identified by street address or legal description of the land, or both.

(4C) In subsections (4A) and (4B),—

**group of trees** means a cluster, grove, or line of trees

**urban environment allotment** or **allotment** means an allotment within the meaning of section 218—

(a) that is no greater than 4 000 $m^2$; and

(b) that is connected to a reticulated water supply system and a reticulated sewerage system; and

(c) on which there is a building used for industrial or commercial purposes or as a dwellinghouse; and

(d) that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.

(4D) To avoid doubt, subsections (4A) and (4B) apply—

(a) regardless of whether the tree, trees, or group of trees is, or the allotment or allotments are, also identified on a map in the plan; and

(b) regardless of whether the allotment or allotments are also clad with bush or other vegetation.

(5) A rule may exempt from its coverage an area or class of contaminated land if the rule—

(a) provides how the significant adverse effects on the environment that the hazardous substance has are to be remedied or mitigated; or

(b) provides how the significant adverse effects on the environment that the hazardous substance is reasonably likely to have are to be avoided; or

(c) treats the land as not contaminated for purposes stated in the rule.

Section 76(1): amended, on 1 August 2003, by section 33(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 76(2A): replaced, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 76(3): amended, on 1 August 2003, by section 33(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 76(3A): repealed, on 1 August 2003, by section 33(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 76(3B): repealed, on 1 August 2003, by section 33(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 76(4)(e): replaced, on 1 August 2003, by section 33(4) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 76(4A): replaced, on 4 September 2013, by section 12 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 76(4B): replaced, on 4 September 2013, by section 12 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 76(4C): inserted, on 4 September 2013, by section 12 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 76(4D): inserted, on 4 September 2013, by section 12 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 76(5): inserted, on 10 August 2005, by section 47 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 76(5): amended, on 1 October 2009, by section 59(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 77 Rules about esplanade reserves on subdivision and road stopping

(1) Subject to Part 2 and having regard to section 229 (purposes of esplanade reserves), a territorial authority may include a rule in its district plan which provides, in respect of any allotment of less than 4 hectares created when land is subdivided,—

(a) that an esplanade reserve which is required to be set aside shall be of a width greater or less than 20 metres:

(b) that section 230 shall not apply:

(c) that instead of an esplanade reserve, an esplanade strip of the width specified in the rule may be created under section 232.

(2) A territorial authority may include a rule in its district plan which provides that in respect of any allotment of 4 hectares or more created when land is subdivided, esplanade reserves or esplanade strips, of the width specified in the rule, shall be set aside or created, as the case may be, under section 230(5).

(3) A territorial authority may include in its district plan a rule which provides—

(a) that esplanade reserves, required to be set aside under section 345(3) of the Local Government Act 1974, shall be of a width greater or less than 20 metres:

(b) that section 345(3) of the Local Government Act 1974 shall not apply.

(4) Rules made under this section shall make provision for such matters as are appropriate in the circumstances of the district, and may apply—

(a) generally; or

(b) in a particular locality; or

(c) in particular circumstances.

Section 77: replaced, on 7 July 1993, by section 41 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 77(4): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Additional provisions for regional rules and district rules*

### 77A Power to make rules to apply to classes of activities and specify conditions

(1) A local authority may—

(a) categorise activities as belonging to one of the classes of activity described in subsection (2); and

(b) make rules in its plan or proposed plan for each class of activity that apply—

(i) to each activity within the class; and

(ii) for the purposes of that plan or proposed plan; and

(c) specify conditions in a plan or proposed plan, but only if the conditions relate to the matters described in section 108 or 220.

(2) An activity may be—

(a) a permitted activity; or

(b) a controlled activity; or

(c) a restricted discretionary activity; or

(d) a discretionary activity; or

(e) a non-complying activity; or

(f) a prohibited activity.

(3) Subsection (1)(b) is subject to section 77B.

Section 77A: replaced, on 1 October 2009, by section 60 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 77B Duty to include certain rules in relation to controlled or restricted discretionary activities

(1) Subsection (2) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a controlled activity.

(2) The local authority must specify in the rule the matters over which it has reserved control in relation to the activity.

(3) Subsection (4) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a restricted discretionary activity.

(4) The local authority must specify in the rule the matters over which it has restricted its discretion in relation to the activity.

Section 77B: replaced, on 1 October 2009, by section 60 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 77C Certain activities to be treated as discretionary activities or prohibited activities

*[Repealed]*

Section 77C: repealed, on 1 October 2009, by section 61 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 77D Rules specifying activities for which consent applications must be notified or are precluded from being notified

A local authority may make a rule specifying the activities for which the consent authority—

(a) must give public notification of an application for a resource consent:

(b) is precluded from giving public notification of an application for a resource consent:

(c) is precluded from giving limited notification of an application for a resource consent.

Section 77D: replaced, on 1 October 2009, by section 62 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 77E Local authority may make rule about financial contributions

(1) A local authority may make a rule requiring a financial contribution for any class of activity other than a prohibited activity.

(2) A rule requiring a financial contribution must specify in the relevant plan or proposed plan—

(a) the purpose for which the financial contribution is required (which may include the purpose of ensuring positive effects on the environment to offset any adverse effect); and

(b) how the level of the financial contribution will be determined; and

(c) when the financial contribution will be required.

(3) To avoid doubt, if a rule requiring a financial contribution is incorporated into a specified territorial authority's district plan under section 77G, the rule does not have immediate legal effect under section 86B when an IPI incorporating the standard is notified.

(4) In this section and section 77T, **financial contribution** has the same meaning as in section 108(9).

Section 77E: inserted, on 21 December 2021, by section 8 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Interpretation of sections 77F to 77T and Schedule 3A*

Heading: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77F Interpretation

In this section, sections 77G to 77T, and Schedule 3A,—

**national planning standards** means the national planning standards published by the Ministry for the Environment in November 2019 and available on an Internet site maintained by that ministry

**urban environment** means any area of land (regardless of size, and irrespective of territorial authority or statistical boundaries) that—

(a) is, or is intended by the specified territorial authority to be, predominantly urban in character; and

(b) is, or is intended by the specified territorial authority to be, part of a housing and labour market of at least 10,000 people

**urban non-residential zone** means any zone in an urban environment that is not a residential zone.

Section 77F: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Intensification requirements in residential zones*

Heading: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77G Duty of specified territorial authorities to incorporate MDRS and give effect to policy 3 or 5 in residential zones

(1) Every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone.

(2) Every residential zone in an urban environment of a specified territorial authority must give effect to policy 3 or policy 5, as the case requires, in that zone.

(3) When changing its district plan for the first time to incorporate the MDRS and to give effect to policy 3 or policy 5, as the case requires, and to meet its obligations in section 80F, a specified territorial authority must use an IPI and the ISPP.

(4) In carrying out its functions under this section, a specified territorial authority may create new residential zones or amend existing residential zones.

(5) A specified territorial authority—

(a) must include the objectives and policies set out in clause 6 of Schedule 3A:

(b) may include objectives and policies in addition to those set out in clause 6 of Schedule 3A, to—

(i) provide for matters of discretion to support the MDRS; and

(ii) link to the incorporated density standards to reflect how the territorial authority has chosen to modify the MDRS in accordance with section 77H.

(6) A specified territorial authority may make the requirements set out in Schedule 3A or policy 3 less enabling of development than provided for in that schedule or by policy 3, if authorised to do so under section 77I.

(7) To avoid doubt, existing provisions in a district plan that allow the same or a greater level of development than the MDRS do not need to be amended or removed from the district plan.

(8) The requirement in subsection (1) to incorporate the MDRS into a relevant residential zone applies irrespective of any inconsistent objective or policy in a regional policy statement.

Section 77G: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77H Requirements in Schedule 3A may be modified to enable greater development

(1) In addition to giving effect to policy 3 or policy 5, a specified territorial authority may enable a greater level of development than provided for by the MDRS by—

(a) omitting 1 or more of the density standards set out in Part 2 of Schedule 3A:

(b) including rules that regulate the same effect as a density standard set out in Part 2 of Schedule 3A, but that are more lenient than provided for by the MDRS.

(2) To avoid doubt, **more lenient** means the rule (including a requirement, condition, or permission) permits an activity that the MDRS would restrict.

(3) A specified territorial authority is considered to have met its obligations under section 77G(1) by acting in accordance with subsection (1) of this section.

(4) A specified territorial authority may choose not to incorporate 1 or more density standards set out in Part 2 of Schedule 3A into its district plan, but, in that case, the authority may not (in its district plan) regulate the same effect as the density standard.

(5) To avoid doubt, if a density standard is incorporated into a specified territorial authority's district plan under subsection (1), the density standard does not have immediate legal effect under section 86B when an IPI incorporating the density standard is notified.

Section 77H: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77I Qualifying matters in applying medium density residential standards and policy 3 to relevant residential zones

A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:

(b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:

(c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:

(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:

(e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:

(f) open space provided for public use, but only in relation to land that is open space:

(g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:

(h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:

(i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:

(j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.

Section 77I: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77J Requirements in relation to evaluation report

(1) This section applies if a territorial authority is amending its district plan (as provided for in section 77G).

(2) The evaluation report from the specified territorial authority referred to in section 32 must, in addition to the matters in that section, consider the matters in subsections (3) and (4).

(3) The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—

(a) demonstrate why the territorial authority considers—

(i) that the area is subject to a qualifying matter; and

(ii) that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area; and

(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and

(c) assess the costs and broader impacts of imposing those limits.

(4) The evaluation report must include, in relation to the provisions implementing the MDRS,—

(a) a description of how the provisions of the district plan allow the same or a greater level of development than the MDRS:

(b) a description of how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including—

(i) any operative district plan spatial layers; and

(ii) any new spatial layers proposed for the district plan.

(5) The requirements set out in subsection (3)(a) apply only in the area for which the territorial authority is proposing to make an allowance for a qualifying matter.

(6) The evaluation report may for the purposes of subsection (4) describe any modifications to the requirements of section 32 necessary to achieve the development objectives of the MDRS.

Section 77J: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77K Alternative process for existing qualifying matters

(1) A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in section 77J, do all the following things:

(a) identify by location (for example, by mapping) where an existing qualifying matter applies:

(b) specify the alternative density standards proposed for those areas identified under paragraph (a):

(c) identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a):

(d) describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by

accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3:

(e) notify the existing qualifying matters in the IPI.

(2) To avoid doubt, existing qualifying matters included in the IPI—

(a) do not have immediate legal effect on notification of the IPI; but

(b) continue to have effect as part of the operative plan.

(3) In this section, an **existing qualifying matter** is a qualifying matter referred to in section 77I(a) to (i) that is operative in the relevant district plan when the IPI is notified.

Section 77K: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77L Further requirement about application of section 77I(j)

A matter is not a qualifying matter under section 77I(j) in relation to an area unless the evaluation report referred to in section 32 also—

(a) identifies the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A or as provided for by policy 3) inappropriate in the area; and

(b) justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and

(c) includes a site-specific analysis that—

(i) identifies the site to which the matter relates; and

(ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and

(iii) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 while managing the specific characteristics.

Section 77L: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77M Effect of incorporation of MDRS in district plan on new applications for resource consents and on some existing designations

(1) This section applies in relation to the consideration by a consent authority of an application made under section 88 for a resource consent (a **new application**)—

(a) for an activity to which the MDRS are proposed to apply in an area in a relevant residential zone; and

(b) that is lodged on or after the date on which a specified territorial authority notifies its IPI incorporating the MDRS in its district plan in accordance with section 80F(1) or (2), as applicable.

(2) The consent authority considering the new application must consider the plan or proposed plan and apply section 104(1)(b)(vi) in the following way:

(a) the provisions of the district plan or any proposed district plan (other than the IPI) cease to have effect in relation to the consideration of the new application; and

(b) the objectives and policies set out in clause 6 of Schedule 3A and proposed in the IPI to be included in the district plan in accordance with section 77G(5)(a) apply in determining that new application.

(3) Subsection (2)(a) applies to the extent that the provisions referred to are inconsistent with the objectives and policies—

(a) set out in clause 6 of Schedule 3A; and

(b) proposed in the IPI to be included in the district plan in accordance with section 77G(5)(a).

(4) This section does not apply in relation to any area or site that—

(a) is a qualifying matter area (within the meaning of section 86BA(7)); or

(b) is in a new residential zone notified in the IPI.

(5) Subsection (6) applies if a designation for which the Minister of Education is the requiring authority—

(a) is included in the specified territorial authority's district plan; and

(b) the designation applies to land that—

(i) is in a relevant residential zone; or

(ii) adjoins a relevant residential zone.

(6) Works undertaken under a designation of the kind referred to in subsection (5) may rely on the provisions of the relevant residential zone that incorporate the density standards in Part 2 of Schedule 3A if those provisions are more lenient than conditions included in the designation.

(7) Any objectives or policies of a regional policy statement or proposed regional policy statement do not apply to the consent authority's consideration of the new application to the extent that they are inconsistent with the objectives and policies in clause 6 of Schedule 3A as notified in the IPI.

(8) This section does not affect the operation of subpart 7 of Part 5.

(9) To avoid doubt, the MDRS are irrelevant to the consideration of a new application unless and until the MDRS are notified in the relevant IPI.

Section 77M: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Intensification requirements in non-residential zones*

Heading: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77N Duty of specified territorial authorities to give effect to policy 3 or policy 5 in non-residential zones

(1) When changing its district plan for the first time to give effect to policy 3 or policy 5, and to meet its obligations under section 80F, a specified territorial authority must use an IPI and the ISPP.

(2) In carrying out its functions under subsection (1), the territorial authority must ensure that the provisions in its district plan for each urban non-residential zone within the authority's urban environment give effect to the changes required by policy 3 or policy 5, as the case requires.

(3) In carrying out its functions under subsection (1), a specified territorial authority—

(a) may create new urban non-residential zones or amend existing urban non-residential zones:

(b) may modify the requirements set out in policy 3 to be less enabling of development than provided for by policy 3, if authorised to do so under section 77O.

Section 77N: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77O Qualifying matters in application of intensification policies to urban non-residential areas

A specified territorial authority may modify the requirements of policy 3 in an urban non-residential zone to be less enabling of development than provided in those policies only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:

(b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:

(c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:

(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:

(e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:

(f) open space provided for public use, but only in relation to land that is open space:

(g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:

(h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:

(i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:

(j) any other matter that makes higher density development as provided for by policy 3, as the case requires, inappropriate in an area, but only if section 77R is satisfied.

Section 77O: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77P Requirements governing application of section 77O

(1) This section applies if a specified territorial authority is amending its district plan (as required by section 77N) and proposes to accommodate a qualifying matter.

(2) The evaluation report from the specified territorial authority referred to in section 32 must, in addition to the matters in that section, consider the matters in subsection (3).

(3) The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—

(a) in the area for which the territorial authority is proposing to make an allowance for a qualifying matter, demonstrate why the territorial authority considers—

(i) that the area is subject to a qualifying matter; and

(ii) that the qualifying matter is incompatible with the level of development provided for by policy 3 for that area; and

(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and

(c) assess the costs and broader impacts of imposing those limits.

Section 77P: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77Q Alternative process for existing qualifying matters

(1) A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in section 77P, do all the following things:

(a) identify by location (for example, by mapping) where an existing qualifying matter applies:

(b) specify the alternative density standards proposed for the area or areas identified under paragraph (a):

(c) identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to the area or areas identified under paragraph (a):

(d) describe in general terms for typical sites in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been enabled by policy 3:

(e) notify the existing qualifying matters in the IPI.

(2) To avoid doubt, existing qualifying matters included in the IPI—

(a) do not have immediate legal effect on notification of the IPI; but

(b) continue to have effect as part of the operative plan.

(3) In this section, an **existing qualifying matter** is a qualifying matter referred to in section 77O(a) to (i) that is operative in the relevant district plan when the IPI is notified.

Section 77Q: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 77R Further requirements about application of section 77O(j)

A matter is not a qualifying matter under section 77O(j) in relation to an area unless the evaluation report referred to in section 32 also—

(a) identifies the specific characteristic that makes the level of urban development required within the relevant paragraph of policy 3 inappropriate; and

(b) justifies why that characteristic makes that level of urban development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and

(c) includes a site-specific analysis that—

(i) identifies the site to which the matter relates; and

(ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and

(iii) evaluates an appropriate range of options to achieve the greatest heights and densities provided for by policy 3 while managing the specific characteristics.

Section 77R: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### *Amendment of NPS-UD*

Heading: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

#### 77S Amendment of NPS-UD

(1) Policy 3 in the NPS-UD is amended by,—

(a) in paragraph (c), after "building heights of", inserting "at"; and

(b) replacing paragraph (d) with:

"(d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and density of urban form commensurate with the level of commercial activity and community services."

(2) The Minister for the Environment, after consulting the Minister of Housing, may amend the NPS-UD to make any changes that the Minister for the Environment is satisfied are required as a result of the enactment of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 to—

(a) remove an inconsistency or a potential inconsistency between the NPS-UD and that Act; or

(b) amend or replace the definition of planning decision in the NPS-UD; or

(c) otherwise clarify the interrelationship between the NPS-UD and that Act.

Section 77S: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### *Financial contributions*

Heading: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

#### 77T Review of financial contributions provisions

Each specified territorial authority may, if it considers it appropriate to do so, include financial contributions provisions, or change its financial contributions provisions (as applicable) in the district plan, and, if it does so, may notify them in the IPI required to be notified in accordance with section 80F.

Section 77T: inserted, on 21 December 2021, by section 9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Miscellaneous provisions*

*[Repealed]*

Heading: repealed, on 19 April 2017, by section 61 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 78 Withdrawal of proposed policy statements and plans

*[Repealed]*

Section 78: repealed, on 7 July 1993, by section 42 of the Resource Management Amendment Act 1993 (1993 No 65).

### 78A Combined regional and district documents

*[Repealed]*

Section 78A: repealed, on 1 October 2009, by section 63 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Review*

Heading: inserted, on 19 April 2017, by section 62 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 79 Review of policy statements and plans

(1) A local authority must commence a review of a provision of any of the following documents it has, if the provision has not been a subject of a proposed policy statement or plan, a review, or a change by the local authority during the previous 10 years:

(a) a regional policy statement:

(b) a regional plan:

(c) a district plan.

(2) If, after reviewing the provision, the local authority considers that it requires alteration, the local authority must, in the manner set out in Parts 1, 4, or 5 of Schedule 1 and this Part, propose to alter the provision.

(3) If, after reviewing the provision, the local authority considers that it does not require alteration, the local authority must still publicly notify the provision—

(a) as if it were a change; and

(b) in the manner set out in Parts 1, 4, or 5 of Schedule 1 and this Part.

(4) Without limiting subsection (1), a local authority may, at any time, commence a full review of any of the following documents it has:

(a) a regional policy statement:

(b) a regional plan:

(c) a district plan.

(5) In carrying out a review under subsection (4), the local authority must review all the sections of, and all the changes to, the policy statement or plan regardless of when the sections or changes became operative.

(6) If, after reviewing the statement or plan under subsection (4), the local authority considers that it requires alteration, the local authority must alter the statement or plan in the manner set out in Parts 1, 4, or 5 of Schedule 1 and this Part.

(7) If, after reviewing the statement or plan under subsection (4), the local authority considers that it does not require alteration, the local authority must still publicly notify the statement or plan—

(a) as if it were a proposed policy statement or plan; and

(b) in the manner set out in Parts 1, 4, or 5 of Schedule 1 and this Part.

(8) A provision of a policy statement or plan, or the policy statement or plan, as the case may be, does not cease to be operative because the provision, statement, or plan is due for review or is being reviewed under this section.

(9) The obligations on a local authority under this section are in addition to its duty to monitor under section 35.

Section 79: replaced, on 1 October 2009, by section 64 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 79(2): amended, on 19 April 2017, by section 63(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 79(3)(b): amended, on 19 April 2017, by section 63(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 79(6): amended, on 19 April 2017, by section 63(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 79(7)(b): amended, on 19 April 2017, by section 63(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 79AA Application of temporary provisions in respect of section 79

(1) The temporary provisions set out in subsections (2) and (3) apply instead of section 79(1) during the period—

(a) beginning on the commencement date; and

(b) ending with the close of 30 September 2024.

(2) A local authority may commence a review of a provision of any of the following documents it has:

(a) a regional policy statement:

(b) a regional plan:

(c) a district plan.

(3) However, any review of a provision that would have taken place under section 79(1) (as it read immediately before the commencement date) if it had not been

temporarily suspended must be commenced no later than the close of 30 September 2024.

(4) In this section, **commencement date** means the date on which Schedule 3 of the COVID-19 Response (Management Measures) Legislation Act 2021 comes into force.

(5) This section is repealed on 1 October 2024.

Section 79AA: inserted, on 3 November 2021, by Schedule 3 clause 10 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

### 79A Circumstance when further review required

*[Repealed]*

Section 79A: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 79B Consequence of review under section 79A

*[Repealed]*

Section 79B: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## *Combined documents*

Heading: inserted, on 19 April 2017, by section 64 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 80 Combined regional and district documents

(1) Local authorities may prepare, implement, and administer the combined regional and district documents as set out in subsections (2) to (6).

(2) A local authority may prepare, implement, and administer a document that meets the requirements of 2 or more of the following:

(a) a regional policy statement:

(b) a regional plan, including a regional coastal plan:

(c) a district plan.

(3) Two or more territorial authorities may prepare, implement, and administer a combined district plan for the whole or any part of their combined districts.

(4) Two or more regional councils may prepare, implement, and administer a document that meets the requirements of the following:

(a) a regional plan, including a regional coastal plan, for the whole or any part of their combined regions:

(b) a regional policy statement, for the whole or any part of their combined regions:

(c) a regional plan, including a regional coastal plan, and a regional policy statement, for the whole or any part of their combined regions.

(5) One or more regional councils or territorial authorities may prepare, implement, and administer a combined regional and district plan for the whole or any part of their respective regions or districts.

(6) A regional council and all the territorial authorities within the region may prepare, implement, and administer a document that meets the requirements of the following:

(a) a regional policy statement for the region; and

(b) a regional plan, including a regional coastal plan, for the region; and

(c) either—

(i) a district plan for each of the territorial authorities; or

(ii) a combined district plan for their combined districts.

(6A) In preparing or amending a combined document, the relevant local authorities must apply the requirements of this Part, as relevant for the documents comprising the combined document.

(6B) The relevant local authorities may also, in preparing the provisions of a regional plan or a district plan, as the case may be, for a combined document that includes a regional policy statement,—

(a) give effect to a proposed regional policy statement; and

(b) have regard to an operative regional policy statement.

(7) Without limiting subsections (1) to (6B), local authorities must consider the preparation of the appropriate combined document under this section whenever significant cross-boundary issues relating to the use, development, or protection of natural and physical resources arise or are likely to arise.

(8) A combined document prepared under this section must clearly identify—

(a) the provisions of the document that are the regional policy statement, the regional plan, the regional coastal plan, or the district plan, as the case may be; and

(b) the objectives, policies, and methods set out or described in the document that have the effect of being provisions of the regional policy statement; and

(c) which local authority is responsible for observing, and enforcing the observance of, each provision of the document.

(9) A combined document prepared under this section—

(a) must be prepared in accordance with Schedule 1; and

(b) when approved by a local authority is deemed, for the purposes of this Act, to be a plan or regional policy statement separately prepared and approved by that authority for its region or district, as the case may be.

(10) Subsection (9)(b) applies whether or not the combined document is approved by any of the other local authorities concerned.

(11) Clauses 30 and 30A of Schedule 7 of the Local Government Act 2002 apply to the appointment and conduct of any joint committee set up for the purposes of preparing, implementing, or administering a combined document under this section.

Section 80: replaced, on 1 October 2009, by section 66 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 80(6A): inserted, on 19 April 2017, by section 65(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 80(6B): inserted, on 19 April 2017, by section 65(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 80(7): amended, on 19 April 2017, by section 65(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 80(11): amended, on 8 August 2014, by section 78 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

## Subpart 4—Freshwater planning process

Subpart 4: replaced, on 1 July 2020, by section 22 of the Resource Management Amendment Act 2020 (2020 No 30).

### 80A Freshwater planning process

(1) The purpose of this subpart is to require all freshwater planning instruments prepared by a regional council to undergo the freshwater planning process.

(2) A **freshwater planning instrument** means—

(a) a proposed regional plan or regional policy statement for the purpose of giving effect to any national policy statement for freshwater management:

(b) a proposed regional plan or regional policy statement that relates to freshwater (other than for the purpose described in paragraph (a)):

(c) a change or variation to a proposed regional plan or regional policy statement if the change or variation—

(i) is for the purpose described in paragraph (a); or

(ii) otherwise relates to freshwater.

(3) A regional council must prepare a freshwater planning instrument in accordance with this subpart and Part 4 of Schedule 1. However, if the council is satisfied that only part of the instrument relates to freshwater, the council must—

(a) prepare that part in accordance with this subpart and Part 4 of Schedule 1; and

(b) prepare the parts that do not relate to freshwater in accordance with Part 1 of Schedule 1 or, if applicable, subpart 5 of this Part.

(4) A regional council must—

(a) publicly notify the freshwater planning instrument; and

(b) if the purpose of the freshwater planning instrument is to give effect to the National Policy Statement for Freshwater Management 2020, publicly notify the freshwater planning instrument by 31 December 2024; and

(c) no later than 6 months after it has publicly notified the freshwater planning instrument, submit the documents required by clause 37(1) of Schedule 1 (the **required documents**) to the Chief Freshwater Commissioner; and

(d) at least 20 working days before submitting the required documents, provide to the Chief Freshwater Commissioner in writing—

(i) its notice of intention to submit those documents; and

(ii) the regional council and local tangata whenua nominations for appointment to the freshwater hearings panel required by clause 59(1)(b) and (c) of Schedule 1.

(5) The following is an outline of the rest of the freshwater planning process set out in Part 4 of Schedule 1:

(a) the Chief Freshwater Commissioner must convene a freshwater hearings panel to conduct the public hearing of submissions on the freshwater planning instrument:

(b) the freshwater hearings panel must conduct the public hearing of submissions in accordance with its powers and the procedures set out in Part 4 of Schedule 1:

(c) after the public hearing of submissions is concluded, the freshwater hearings panel must make recommendations to the regional council on the freshwater planning instrument:

(d) the regional council may accept or reject any recommendation. However,—

(i) the regional council must provide reasons for rejecting a recommendation; and

(ii) a person who made a submission on the freshwater planning instrument may make an appeal in accordance with subpart 2 of Part 4 of Schedule 1.

(6) For the purpose of this subpart the following provisions of Schedule 1 apply:

(a) clauses 1(3), 1A, 1B, 2(1), 3 to 3C, 4A, 5, 6, 7(1) and (2), 8, 8A, and 8D; and

(b) clauses 16, 16A, 16B, 17, 20, and 20A; and

(c) if a request is made by a person under clause 21(1) in relation to a freshwater planning instrument, Part 2 of Schedule 1 applies to the request.

(7) This section does not affect the Minister's ability to call in a matter that the Minister considers is or is part of a proposal of national significance under section 142.

(8) In subsection (2), a proposed regional plan does not include a proposed regional coastal plan or a change or variation to that plan.

(9) Section 37(1)(a) does not apply to any time period specified in this subpart or Part 4 of Schedule 1.

(10) In subsection (4), **publicly notify**, in relation to a freshwater planning instrument, means to publicly notify the instrument in accordance with clause 5 of Schedule 1.

(11) Subsection (5) is by way of explanation only and does not limit or affect the other provisions of this Act.

Section 80A: replaced, on 1 July 2020, by section 22 of the Resource Management Amendment Act 2020 (2020 No 30).

## Subpart 5—Streamlined planning process

Subpart 5: inserted, on 19 April 2017, by section 66 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 80B Purpose, scope, application of Schedule 1, and definitions

(1) This subpart and Part 5 of Schedule 1 provide a process, through a direction of the responsible Minister, for the preparation of a planning instrument in order to achieve an expeditious planning process that is proportionate to the complexity and significance of the planning issues being considered.

(2) Under this subpart, Schedule 1 applies as follows:

(a) clauses 1A to 3C, 6, 6A, 16, and 20A apply; and

(b) clauses 4, 9, 13, 21 to 27 (other than clauses 25(2)(a)(i) and (ii) and 26(b)), and 28(2) to (6) apply; but

(c) the rest of Part 1 does not apply unless it is expressly applied by—

(i) this subpart; or

(ii) Part 5 of Schedule 1; or

(iii) a direction given under clause 78 of Schedule 1.

(3) In this subpart and Part 5 of Schedule 1,—

**national direction** means a direction made by—

(a) a national planning standard; or

(b) a national environmental standard; or

(c) regulations made under section 360; or

(d) a national policy statement

**planning instrument**—

(a) means a policy statement or plan; and

(b) includes a change or variation to a policy statement or plan

**responsible Minister** means the Minister or Ministers who give a direction in accordance with this subpart and Part 5 of Schedule 1, namely,—

(a) the Minister of Conservation, in the case of a regional coastal plan:

(b) both the Minister and the Minister of Conservation, in the case of a proposed planning instrument that is to encompass matters within the jurisdiction of both those Ministers:

(c) the Minister, in every other case.

Section 80B: inserted, on 19 April 2017, by section 66 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 80C Application to responsible Minister for direction

(1) If a local authority determines that, in the circumstances, it would be appropriate to use the streamlined planning process to prepare a planning instrument, it may apply in writing to the responsible Minister in accordance with clause 75 of Schedule 1 for a direction to proceed under this subpart.

(2) However, a local authority may apply for a direction only if the planning instrument or proposed planning instrument is not a freshwater planning instrument and the local authority is satisfied that the application satisfies at least 1 of the following criteria:

(a) the proposed planning instrument will implement a national direction:

(b) as a matter of public policy, the preparation of a planning instrument is urgent:

(c) the proposed planning instrument is required to meet a significant community need:

(d) a plan or policy statement raises an issue that has resulted in unintended consequences:

(e) the proposed planning instrument will combine several policy statements or plans to develop a combined document prepared under section 80:

(f) the expeditious preparation of a planning instrument is required in any circumstance comparable to, or relevant to, those set out in paragraphs (a) to (e).

(3) In relation to a private plan change accepted under clause 25(2)(b) of Schedule 1, a local authority must obtain the agreement of the person requesting the change before the local authority applies for a direction under this section.

(4) If an application is made under this section, it must be submitted to the responsible Minister before the local authority gives notice—

(a) under clause 5 or 5A of Schedule 1, in relation to a proposed planning instrument; or

(b) *[Repealed]*

(c) under clauses 25(2)(a)(i) and 26(b) of Schedule 1, in relation to a request for a private plan change.

Section 80C: inserted, on 19 April 2017, by section 66 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 80C(2): amended, on 1 July 2020, by section 23(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 80C(4)(b): repealed, on 1 July 2020, by section 23(2) of the Resource Management Amendment Act 2020 (2020 No 30).

## Subpart 5A—Intensification planning instruments and intensification streamlined planning process

Subpart 5A: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80D What this subpart and Part 6 of Schedule 1 do

This subpart and Part 6 of Schedule 1 provide a process for the preparation of an IPI by a specified territorial authority in order to achieve an expeditious planning process.

Section 80D: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

#### *Intensification planning instruments*

Heading: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80E Meaning of intensification planning instrument

(1) In this Act, **intensification planning instrument** or **IPI** means a change to a district plan or a variation to a proposed district plan—

(a) that must—

(i) incorporate the MDRS; and

(ii) give effect to,—

(A) in the case of a tier 1 territorial authority, policies 3 and 4 of the NPS-UD; or

(B) in the case of a tier 2 territorial authority to which regulations made under section 80I(1) apply, policy 5 of the NPS-UD; or

(C) in the case of a tier 3 territorial authority to which regulations made under section 80K(1) apply, policy 5 of the NPS-UD; and

(b) that may also amend or include the following provisions:

(i) provisions relating to financial contributions, if the specified territorial authority chooses to amend its district plan under section 77T:

(ii) provisions to enable papakāinga housing in the district:

(iii) related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on—

(A) the MDRS; or

(B) policies 3, 4, and 5 of the NPS-UD, as applicable.

(2) In subsection (1)(b)(iii), **related provisions** also includes provisions that relate to any of the following, without limitation:

(a) district-wide matters:

(b) earthworks:

(c) fencing:

(d) infrastructure:

(e) qualifying matters identified in accordance with section 77I or 77O:

(f) storm water management (including permeability and hydraulic neutrality):

(g) subdivision of land.

Section 80E: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80F Specified territorial authority must notify IPI

(1) The following territorial authorities must notify an IPI on or before 20 August 2022:

(a) every tier 1 territorial authority:

(b) a tier 2 territorial authority to which regulations made before 21 March 2022 under section 80I(1) apply.

(2) The following territorial authorities must notify an IPI on or before the date specified in the applicable regulations:

(a) a tier 2 territorial authority to which regulations made on or after 21 March 2022 under section 80I(1) apply:

(b) a tier 3 territorial authority to which regulations made under section 80K(1) apply.

(3) A territorial authority to which subsection (1) or (2) applies must prepare the IPI—

(a) using the ISPP; and

(b) in accordance with—

(i) clause 95 of Schedule 1; and

(ii) any requirements specified by the Minister in a direction made under section 80L.

Section 80F: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80G Limitations on IPIs and ISPP

*IPIs*

(1) A specified territorial authority must not do any of the following:

(a) notify more than 1 IPI:

(b) use the IPI for any purpose other than the uses specified in section 80E:

(c) withdraw the IPI.

*ISPP*

(2) A local authority must not use the ISPP except as permitted under section 80F(3).

Section 80G: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80H IPI must show how MDRS are incorporated

(1) When a specified territorial authority notifies its IPI in accordance with section 80F(1) or (2), it must show in the instrument, for the purposes of sections 77M, 86B, and 86BA—

(a) which provisions incorporate—

(i) the density standards in Part 2 of Schedule 3A; and

(ii) the objectives and policies in clause 6 of Schedule 3A; and

(b) which provisions in the operative district plan and any proposed plan are replaced by—

(i) the density standards in Part 2 of Schedule 3A; and

(ii) the objectives and policies in clause 6 of Schedule 3A.

(2) The identification of a provision in an IPI as required in subsection (1)—

(a) does not form part of the IPI; and

(b) may be removed, without any further authority than this subsection, by the specified territorial authority once the IPI becomes operative.

Section 80H: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Tier 2 territorial authorities*

Heading: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80I Regulations requiring tier 2 territorial authority to change district plan

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations requiring a tier 2 territorial authority to prepare and notify an IPI.

(2) An Order in Council made under subsection (1) on or after 21 March 2022 must specify the date by which the tier 2 territorial authority must notify the IPI.

(3) Before recommending the making of regulations under subsection (1), the Minister must—

(a) consult the Minister of Housing and the Minister for Māori Crown Relations—Te Arawhiti; and

(b) be satisfied that the district of the relevant tier 2 territorial authority is experiencing an acute housing need.

(4) The Minister, in determining whether a district is experiencing an acute housing need,—

(a) must have regard to the median multiple in that district (that is, the median house price divided by the median gross annual household income); and

(b) may have regard to any other information indicating that there is an acute housing need in the district.

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114 |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 80I: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Tier 3 territorial authorities*

Heading: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80J Tier 3 territorial authority may request regulations requiring territorial authority to change district plan

(1) A tier 3 territorial authority may request the Minister to recommend the making of regulations under section 80K(1) requiring that territorial authority to prepare and notify an IPI.

(2) The Minister may approve or decline the request.

(3) Before approving or declining the request, the Minister must—

(a) consult the Minister of Housing and the Minister for Māori Crown Relations—Te Arawhiti; and

(b) determine whether the district of the relevant tier 3 territorial authority is experiencing an acute housing need.

(4) The Minister, in determining whether a district is experiencing an acute housing need,—

(a) must have regard to the median multiple in that district (that is, the median house price divided by the median gross annual household income); and

(b) may have regard to any other information indicating that there is an acute housing need in the district.

Section 80J: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80K Regulations requiring tier 3 territorial authority to change district plan

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations requiring a tier 3 territorial authority to prepare and notify an IPI.

(2) An Order in Council made under subsection (1) must specify the date by which the tier 3 territorial authority must notify the IPI.

(3) The Minister may recommend the making of regulations under subsection (1) only if—

(a) the Minister has received a request from a tier 3 territorial authority under section 80J(1); and

(b) the Minister is satisfied that the requirements specified in section 80J(3) have been met.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

| | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114 |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 80K: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### *Ministerial direction*

Heading: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## 80L Minister may make direction

(1) The Minister may direct 1 or more specified territorial authorities in relation to the following requirements:

(a) the number of panel members that the specified territorial authority must appoint to an independent hearings panel established under clause 96(1)(a) of Schedule 1:

(b) the level of experience and qualifications that a person must meet before the specified territorial authority may appoint that person to an independent hearings panel:

(c) 1 or more periods of time within which the specified territorial authority must complete 1 or more stages of the ISPP:

(d) matters on which the specified territorial authority must report to the Minister.

(2) The direction may also include the Minister's statement of expectations for the specified territorial authority.

(3) In deciding the content of the direction, the Minister must have regard to section 80D.

(4) A direction made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

| | | |
|---|---|---|
| **Publication** | The maker must publish it in accordance with the Legislation (Publication) Regulations 2021 | LA19 s 74(1)(aa) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114 |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 80L: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80M Amendment of direction

(1) The Minister may initiate an amendment of a direction made under section 80L.

(2) A specified territorial authority may request in writing that the Minister amend a direction made under section 80L that applies to that territorial authority, setting out the reasons for the request.

(3) The Minister may amend the direction as the Minister thinks appropriate.

(4) Unless an amendment made under this section has no more than a minor effect or is made to correct a technical error, section 80L(1), (2), and (3) applies.

(5) An amendment made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| Legislation Act 2019 requirements for secondary legislation made under this section | | |
|---|---|---|
| **Publication** | The maker must publish it in accordance with the Legislation (Publication) Regulations 2021 | LA19 s 74(1)(aa) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114 |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 80M: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 80N Specified territorial authority must comply with direction

(1) A specified territorial authority—

(a) must comply with the terms of a direction made under section 80L (other than in respect of the Minister's statement of expectations included in the direction); but

(b) must have regard to that statement.

(2) The direction applies as from time to time amended in accordance with section 80M.

Section 80N: inserted, on 21 December 2021, by section 10 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## Subpart 6—Miscellaneous matters

Subpart 6 heading: inserted, on 19 April 2017, by section 66 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 81 Boundary adjustments

(1) Where the boundaries of any region or district are altered, and any area comes within the jurisdiction of a different local authority,—

(a) the plan or proposed plan that applied to the area before the alteration of the boundaries shall continue to apply to that area and shall, in so far as it applies to the area, be deemed to be part of the plan or proposed plan of the different local authority:

(b) any activity that may, before the alteration of the boundaries, have been undertaken under section 19 may continue to be undertaken as if the alteration of the boundaries had not taken place.

(2) Where the boundaries of any district are altered so as to include within that district any area not previously within the boundaries of any other district, no person may use that land unless expressly allowed by a resource consent, until a district plan provides otherwise.

(3) A territorial authority shall, as soon as practicable but within 2 years, make such changes to its district plans as it considers necessary to cover any area that comes within its jurisdiction, and, after the changes are made, this section shall cease to apply.

Section 81(1)(b): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 81(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 82 Disputes

(1) Subsection (2) applies if there is a dispute about—

(a) whether there is an inconsistency between a water conservation order and a regional policy statement or a plan; or

(b) whether there is an inconsistency between a regional policy statement or a regional plan and a district plan (including any rules of a plan) on a matter of regional significance; or

(c) whether a regional policy statement or a plan gives effect to a national policy statement or New Zealand coastal policy statement or a national planning standard.

(2) A Minister or local authority responsible for a relevant national policy statement, New Zealand coastal policy statement, a national planning standard, policy statement, plan, or order may refer a dispute to the Environment Court for a decision resolving the matter.

(3) If a dispute about whether there is an inconsistency described in subsection (1)(a) or (b) is referred to the court, and the court considers that there is an inconsistency, the court must order the authority responsible for the policy statement or plan to remove the inconsistency by initiating a change to the policy statement or plan using the process in Schedule 1.

(4) If a dispute about whether a regional policy statement or a plan gives effect to a national policy statement or New Zealand coastal policy statement or a national planning standard is referred to the court, and the court considers that the policy statement or plan does not give effect to the other policy statement or a national planning standard, the court must order the authority responsible for the policy statement or plan to amend it in accordance with section 55 or 58I.

(5) However, the court does not need to make an order under subsection (3) or (4) if it considers that the inconsistency, or failure to give effect to the other policy statement or a national planning standard, is of minor significance that does not affect the general intent and purpose of the policy statement, national planning standard, plan, or water conservation order concerned.

(6) To avoid doubt, giving effect to a policy statement includes giving effect to it by complying with a direction described in section 55(2), and giving effect to the national planning standard includes giving effect to it by complying with section 58I(2).

Section 82: replaced, on 1 August 2003, by section 36 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 82(1)(c): amended, on 19 April 2017, by section 67(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(2): amended, on 19 April 2017, by section 67(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(3): replaced, on 1 October 2009, by section 67 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 82(4): inserted, on 1 October 2009, by section 67 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 82(4): amended, on 19 April 2017, by section 67(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(4): amended, on 19 April 2017, by section 67(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(4): amended, on 19 April 2017, by section 67(5) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(5): inserted, on 1 October 2009, by section 67 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 82(5): amended, on 19 April 2017, by section 67(6) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(5): amended, on 19 April 2017, by section 67(7) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 82(6): inserted, on 1 October 2009, by section 67 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 82(6): amended, on 19 April 2017, by section 67(8) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 82A Dispute relating to review under section 79A

*[Repealed]*

Section 82A: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 83 Procedural requirements deemed to be observed

A policy statement or plan that is held out by a local authority as being operative shall be deemed to have been prepared and approved in accordance with Schedule 1 and shall not be challenged except by an application for an enforcement order under section 316(3).

### 84 Local authorities to observe their own policy statements and plans

(1) While a policy statement or a plan is operative, the regional council or territorial authority concerned, and every consent authority, shall observe and, to the extent of its authority, enforce the observance of the policy statement or plan.

(2) No purported grant of a resource consent, and no waiver or sufferance or departure from a policy statement or plan, whether written or otherwise, shall, unless authorised by this Act, have effect in so far as it is contrary to subsection (1).

### 85 Environment Court may give directions in respect of land subject to controls

(1) An interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act.

(2) Notwithstanding subsection (1), any person having an interest in land to which any provision or proposed provision of a plan or proposed plan applies, and who considers that the provision or proposed provision would render that interest in land incapable of reasonable use, may challenge that provision or proposed provision on those grounds—

(a) in a submission made under Schedule 1 in respect of a proposed plan or change to a plan; or

(b) in an application to change a plan made under clause 21 of Schedule 1.

(3) Subsection (3A) applies in the following cases:

(a) on an application to the Environment Court to change a plan under clause 21 of Schedule 1:

(b) on an appeal to the Environment Court in relation to a provision of a proposed plan or change to a plan.

(3A) The Environment Court, if it is satisfied that the grounds set out in subsection (3B) are met, may,—

(a) in the case of a plan or proposed plan (other than a regional coastal plan or proposed regional coastal plan), direct the local authority to do whichever of the following the local authority considers appropriate:

(i) modify, delete, or replace the provision in the plan or proposed plan in the manner directed by the court:

(ii) acquire all or part of the estate or interest in the land under the Public Works Act 1981, as long as—

(A) the person with an estate or interest in the land or part of it agrees; and

(B) the requirements of subsection (3D) are met; and

(b) in the case of a regional coastal plan or proposed regional coastal plan,—

(i) report its findings to the applicant, the regional council concerned, and the Minister of Conservation; and

(ii) include a direction to the regional council to modify, delete, or replace the provision in the manner directed by the court.

(3B) The grounds are that the provision or proposed provision of a plan or proposed plan—

(a) makes any land incapable of reasonable use; and

(b) places an unfair and unreasonable burden on any person who has an interest in the land.

(3C) Before exercising its jurisdiction under subsection (3A), the Environment Court must have regard to—

(a) Part 3 (including the effect of section 9(3); and

(b) the effect of subsection (1) of this section.

(3D) The Environment Court must not give a direction under subsection (3A)(a)(ii) unless—

(a) the person with the estate or interest in the land or part of the land concerned (or the spouse, civil union partner, or de facto partner of that person)—

(i) had acquired the estate or interest in the land or part of it before the date on which the provision or proposed provision was first notified or otherwise included in the relevant plan or proposed plan; and

(ii) the provision or proposed provision remained in substantially the same form; and

(b) the person with the estate or interest in the land or part of the land consents to the giving of the direction.

(4) Any direction given or report made under subsection (3A) has effect under this Act as if it were made or given under clause 15 of Schedule 1.

(5) Nothing in subsections (3) to (3D) limits the powers of the Environment Court under clause 15 of Schedule 1 on an appeal under clause 14 of that schedule.

(6) In this section,—

**provision of a plan or proposed plan** does not include a designation or a heritage order or a requirement for a designation or a heritage order

**reasonable use**, in relation to land, includes the use or potential use of the land for any activity whose actual or potential effects on any aspect of the environment or on any person (other than the applicant) would not be significant.

(7) *[Repealed]*

Section 85 heading: replaced, on 19 April 2017, by section 68(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(2)(a): amended, on 19 April 2017, by section 68(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(2)(b): amended, on 7 July 1993, by section 43(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 85(3): replaced, on 19 April 2017, by section 68(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(3A): inserted, on 19 April 2017, by section 68(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(3B): inserted, on 19 April 2017, by section 68(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(3C): inserted, on 19 April 2017, by section 68(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(3D): inserted, on 19 April 2017, by section 68(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(4): replaced, on 19 April 2017, by section 68(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(5): replaced, on 19 April 2017, by section 68(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(6): replaced, on 19 April 2017, by section 68(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 85(7): repealed, on 19 April 2017, by section 68(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### *Plan must not allow activity that prevents protected customary rights*

Heading: inserted, on 17 January 2005, by section 21 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Heading: amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## 85A Plan or proposed plan must not include certain rules

A plan or proposed plan must not include a rule that describes an activity as a permitted activity if that activity will, or is likely to, have an adverse effect that is more than minor on a protected customary right carried out under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Section 85A: inserted, on 17 January 2005, by section 21 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 85A: amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## 85B Process to apply if plan or proposed plan does not comply with section 85A

(1) If a protected customary rights group considers that a rule in a plan or proposed plan does not comply with section 85A, the holder may—

(a) make a submission to the local authority concerned under clause 6 of Schedule 1; or

(b) request a change under clause 21 of Schedule 1; or

(c) apply to the Environment Court in accordance with section 293A(3) for a change to a rule in the plan or proposed plan.

(2) A local authority or the Environment Court, as the case may be, in determining whether or not a rule in a plan or proposed plan complies with section 85A, must consider the following matters:

(a) the effects of the proposed activity on the exercise of a protected customary right; and

(b) the area that the proposed activity would have in common with the protected customary right; and

(c) the degree to which the proposed activity must be carried out to the exclusion of other activities; and

(d) the degree to which the exercise of a protected customary right must be carried out to the exclusion of other activities; and

(e) whether the protected customary right can be exercised only in a particular area.

Section 85B: inserted, on 17 January 2005, by section 21 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 85B(1): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 85B(1)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 85B(2)(a): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 85B(2)(b): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 85B(2)(d): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 85B(2)(e): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 86 Power to acquire land

(1) In addition to any power it may have to acquire land for any public work which it is authorised to undertake, a regional council or territorial authority may, while its plan is operative, acquire by agreement under the Public Works Act 1981 any land (including any interest in land) in its region or district, if, in accordance with the plan, the regional council or territorial authority considers it necessary or expedient to do so for any of the following purposes:

(a) terminating or preventing any non-complying or prohibited activity in relation to that land:

(b) facilitating activity in relation to that land that is in accordance with the objectives and policies of the plan.

(2) Except as provided in sections 85(3A)(a)(ii), 185, and 198, nothing in any plan shall impose on any regional council or territorial authority any obligation to acquire any land.

(3) Every person having any interest in land taken for any purpose authorised by subsection (1) shall be entitled to all compensation which that person would be entitled to if the land had been acquired for a public work under the Public Works Act 1981.

Section 86(2): amended, on 19 April 2017, by section 69 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## Subpart 7—Legal effect of rules

Subpart 7 heading: inserted, on 19 April 2017, by section 70 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### *Legal effect of rules*

### *[Repealed]*

Heading: repealed, on 19 April 2017, by section 70 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 86A Purpose of sections 86B to 86G

(1) The purpose of sections 86B to 86G is to specify when a rule in a proposed plan has legal effect.

(2) Except to the extent that subsection (1) applies, sections 86B to 86G do not limit or affect the weight that a consent authority gives to objectives, policies, and other issues, reasons, or methods in plans before the plan becomes operative.

Section 86A: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 86A(1): amended, on 19 April 2017, by section 71 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 86B When rules in proposed plans have legal effect

(1) A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified under clause 10(4), 102(1), or 106(1) of Schedule 1, as applicable, except if—

(a) subsection (3) or section 86BA applies; or

(b) the Environment Court, in accordance with section 86D, orders the rule to have legal effect from a different date (being the date specified in the court order); or

(c) the local authority concerned resolves that the rule has legal effect only once the proposed plan becomes operative in accordance with clause 20 of Schedule 1.

(2) However, subsection (1)(c) applies only if—

(a) the local authority makes the decision before notifying the proposed plan under clause 5 of Schedule 1; and

(b) the notification includes the decision; and

(c) the decision is not subsequently rescinded (in which case the rule has legal effect from a date determined in accordance with section 86C).

(3) A rule in a proposed plan has immediate legal effect if the rule—

(a) protects or relates to water, air, or soil (for soil conservation); or

(b) protects areas of significant indigenous vegetation; or

(c) protects areas of significant habitats of indigenous fauna; or

(d) protects historic heritage; or

(e) provides for or relates to aquaculture activities.

(4) For the purposes of subsection (2)(c), a decision is **rescinded** if—

(a) the local authority publicly notifies that the decision is rescinded; and

(b) the public notice includes a statement of the decision to which it relates and the date on which the recision was made.

(5) For the purposes of subsection (3) and section 86BA, **immediate legal effect** means legal effect on and from the date on which the proposed plan containing the rule is publicly notified under clause 5 of Schedule 1.

(6) *[Repealed]*

Section 86B: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 86B heading: amended, on 19 April 2017, by section 72(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86B(1): amended, on 21 December 2021, by section 11(1) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 86B(1)(a): amended, on 21 December 2021, by section 11(2) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 86B(2)(a): amended, on 19 April 2017, by section 72(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86B(2)(b): amended, on 19 April 2017, by section 72(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86B(3)(e): replaced, on 1 October 2011, by section 18(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 86B(5): amended, on 21 December 2021, by section 11(3) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 86B(6): repealed, on 1 October 2011, by section 18(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 86BA Immediate legal effect of rules in IPI prepared using ISPP

*Immediate legal effect: general*

(1) A rule in a proposed plan has immediate legal effect if the rule meets all of the following criteria:

(a) the rule is in an IPI prepared using the ISPP:

(b) the rule authorises as a permitted activity a residential unit in a relevant residential zone in accordance with the density standards set out in Part 2 of Schedule 3A:

(c) the rule does not apply to either of the following areas:

(i) a new residential zone:

(ii) a qualifying matter area.

(2) If a rule in a district plan (**rule A**) is inconsistent with a rule to which subsection (1) applies (**rule B**),—

(a) rule A ceases to have legal effect from the time at which rule B has immediate legal effect; and

(b) rule A is no longer to be treated as an operative provision of the district plan.

*More lenient density standards*

(3) Subsection (4) applies if a rule in a proposed plan—

(a) meets the criteria specified in subsection (1)(a) and (c); and

(b) would meet the criterion specified in subsection (1)(b) but for the fact that it includes a proposed density standard that—

(i) regulates the same effect as a density standard set out in Part 2 of Schedule 3A; and

(ii) is proposed, in accordance with section 77H(1)(b), to be more lenient than provided for by the MDRS.

(4) If this subsection applies,—

(a) the proposed density standard does not have immediate legal effect; but

(b) all other density standards referred to in subsection (1)(b) have immediate legal effect and subsection (2) applies to those standards as if they were rule B.

*Omitted or additional density standards*

(5) Subsection (6) applies if—

(a) the rule referred to in subsection (1)—

(i) omits, in accordance with section 77H(1)(a), a density standard set out in Part 2 of Schedule 3A; or

(ii) includes an additional requirement, condition, or permission regulating an effect other than those set out in Part 2 of Schedule 3A; and

(b) the omitted density standard, or the additional requirement, condition, or permission, regulates the same effect as a rule (including a density stand-

ard, requirement, condition, or permission) in the operative plan (the **operative rule**).

(6) If this subsection applies, the operative rule continues to have legal effect until the date on which the proposed plan becomes operative.

*Interpretation*

(7) In this section,

**more lenient** has the same meaning as in section 77H(2)

**qualifying matter area** means an area in respect of which the specified territorial authority has proposed, in accordance with section 77I, that a qualifying matter apply.

Section 86BA: inserted, on 21 December 2021, by section 12 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 86C When rule has legal effect if decision to delay its effect is rescinded

(1) This section applies to a rule to which section 86B(1)(c) applies that is rescinded (within the meaning of subsection (4) of that section).

(2) The rule has legal effect from the later of—

(a) the day after the date on which the local authority concerned publicly notifies that the decision in relation to the rule is rescinded:

(b) the day that a decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.

Section 86C: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 86D Environment Court may order rule to have legal effect from date other than standard date

(1) In this section, **rule** means a rule—

(a) in a proposed plan; and

(b) that is not a rule of a type described in section 86B(3)(a) to (e).

(2) A local authority may apply before or after the proposed plan is publicly notified under clause 5 of Schedule 1 to the Environment Court for a rule to have legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.

(3) If the court grants the application, the order must specify the date from which the rule is to have legal effect, being a date no earlier than the later of—

(a) the date that the proposed plan is publicly notified; and

(b) the date of the court order.

Section 86D: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 86D(1)(a): amended, on 19 April 2017, by section 73(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86D(1)(b): amended, on 19 April 2017, by section 73(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 86E Local authorities must identify rules having early or delayed legal effect

(1) A local authority must clearly identify any rule in a proposed plan that has legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1—

(a) at the time the proposed plan is notified under clause 5, or given limited notification under clause 5A of the schedule; or

(b) as soon as practicable after the date is determined, if the rule concerned is the subject of an application under section 86D and the application is not determined before the proposed plan is notified.

(2) *[Repealed]*

(3) The identification of a rule in a proposed plan under subsection (1)—

(a) does not form part of the proposed plan; and

(b) may be removed, without any further authority than this subsection, by the local authority once the plan becomes operative in accordance with clause 20 of Schedule 1.

Section 86E: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 86E(1)(a): amended, on 19 April 2017, by section 74(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86E(2): repealed, on 19 April 2017, by section 74(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86E(3): amended, on 19 April 2017, by section 74(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86E(3): amended, on 19 April 2017, by section 74(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86E(3)(a): amended, on 19 April 2017, by section 74(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86E(3)(b): amended, on 19 April 2017, by section 74(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 86F When rules in proposed plans must be treated as operative

(1) A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,—

(a) no submissions in opposition have been made or appeals have been lodged; or

(b) all submissions in opposition and appeals have been determined; or

(c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.

(2) However, until the decisions have been given under clause 10(4) of Schedule 1 on all submissions, subsection (1) does not apply to the rules in a proposed plan that was given limited notification.

Section 86F: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 86F(2): inserted, on 19 April 2017, by section 75 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 86G Rule that has not taken legal effect or become operative excluded from references to rule in this Act and regulations made under this Act

(1) A reference in this Act or in any regulations made under it to a rule in a proposed plan does not include a reference to a rule in the proposed plan that—

(a) has not taken legal effect in accordance with section 86B; or

(b) has not become operative under section 86F.

(2) Subsection (1) applies subject to any express provision to the contrary in this Act.

Section 86G: inserted, on 1 October 2009, by section 68 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 86G(1): amended, on 19 April 2017, by section 76(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 86G(1): amended, on 19 April 2017, by section 76(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

## Part 6
## Resource consents

### 87AA This Part subject to Part 6A

This Part applies subject to Part 6A.

Section 87AA: inserted, on 26 March 2002, by section 7 of the Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5).

### 87AAB Meaning of boundary activity and related terms

(1) An activity is a **boundary activity** if—

(a) the activity requires a resource consent because of the application of 1 or more boundary rules, but no other district rules, to the activity; and

(b) no infringed boundary is a public boundary.

(2) In this section,—

**boundary rule** means a district rule, or part of a district rule, to the extent that it relates to—

(a) the distance between a structure and 1 or more boundaries of an allotment; or

(b) the dimensions of a structure in relation to its distance from 1 or more boundaries of an allotment

**infringed boundary**, in relation to a boundary activity,—

(a) means a boundary to which an infringed boundary rule applies:

(b) if there is an infringement to a boundary rule when measured from the corner point of an allotment (regardless of where the infringement is to be measured from under the district plan), means every allotment boundary that intersects with the point of that corner:

(c) if there is an infringement to a boundary rule that relates to a boundary that forms part of a private way, means the allotment boundary that is on the opposite side of the private way (regardless of where the infringement is to be measured from under the district plan)

**public boundary** means a boundary between an allotment and any road, river, lake, coast, esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown.

Section 87AAB: inserted, on 18 October 2017, by section 134 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 87AAC Meaning of fast-track application

(1) An application is a **fast-track application** if the application—

(a) is for a resource consent for a controlled activity (but no other activity) that requires consent under a district plan (other than a subdivision of land); and

(b) includes an address for service that is an electronic address.

(2) An application described in subsection (1) ceases to be a fast-track application if—

(a) a consent authority gives public or limited notification of the application; or

(b) a hearing is to be held for the application; or

(c) at the time the application is lodged, the applicant notifies the consent authority that the applicant wishes to opt out of the fast track process.

(3) To avoid doubt, if an application ceases to be a fast-track application under subsection (2)(a) or (b),—

(a) the application is not incomplete by reason only that it does not include the information referred to in section 88(2)(c); but

(b) a consent authority may, under section 92, request the applicant to provide any of the information referred to in section 88(2)(c).

(4) To avoid doubt, when an application ceases to be a fast-track application,—

(a) the application becomes subject to the standard processing requirements (including any time periods for doing anything) under this Act that would have applied if the application had not been a fast-track application; and

(b) those time periods are deemed to have been running from the time they would have begun if this section had not applied and are not reset as from the time the application ceases to be fast-track.

Section 87AAC: inserted, on 18 October 2017, by section 134 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 87AAC(1): replaced, on 1 July 2020, by section 24 of the Resource Management Amendment Act 2020 (2020 No 30).

### 87AAD Overview of application of this Part to boundary activities and fast-track applications

(1) If an activity is a boundary activity,—

(a) the activity may be a permitted activity if the requirements of section 87BA are satisfied:

(b) there are restrictions on who may be notified of an application for a resource consent for the activity (*see* sections 95A(4) and (5) and 95B(7)):

(c) the right of appeal under section 120 against the whole or any part of a decision of a consent authority is excluded unless the decision relates to a resource consent for a non-complying activity.

(2) If an application is a fast-track application,—

(a) a consent authority must, within the time limit specified in section 95 for fast-track applications, decide whether to give public or limited notification of the application; and

(b) notice of a decision on the application must be given within the time limit specified in section 115(4A); and

(c) except as provided for in paragraphs (a) and (b), this Act applies to the application in the same way as it applies to any other application for a resource consent.

(3) This overview is by way of explanation only. If any provision of this Act conflicts with this overview, that provision prevails.

Section 87AAD: inserted, on 18 October 2017, by section 134 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 87 Types of resource consents

In this Act, the term **resource consent** means any of the following:

(a) a consent to do something that otherwise would contravene section 9 or section 13 (in this Act called a **land use consent**):

(b) a consent to do something that otherwise would contravene section 11 (in this Act called a **subdivision consent**):

(c) a consent to do something in a coastal marine area that otherwise would contravene any of sections 12, 14, 15, 15A, and 15B (in this Act called a **coastal permit**):

(d) a consent to do something (other than in a coastal marine area) that otherwise would contravene section 14 (in this Act called a **water permit**):

(e) a consent to do something (other than in a coastal marine area) that otherwise would contravene section 15 (in this Act called a **discharge permit**).

Section 87(c): amended, on 20 August 1998, by section 17 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 87(c): amended, on 20 August 1998, by section 11 of the Resource Management Amendment Act 1994 (1994 No 105).

### 87A Classes of activities

(1) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a permitted activity, a resource consent is not required for the activity if it complies with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(2) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and—

(a) the consent authority must grant a resource consent except if—

(i) section 106 applies; or

(ii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies; and

(b) the consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved (whether in its plan or proposed plan, a national environmental standard, or otherwise); and

(c) the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(3) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a restricted discretionary activity, a resource consent is required for the activity and—

(a) the consent authority's power to decline a consent, or to grant a consent and to impose conditions on the consent, is restricted to the matters over which discretion is restricted (whether in its plan or proposed plan, a national environmental standard, or otherwise); and

(b) if granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(4) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a discretionary activity, a resource consent is required for the activity and—

(a) the consent authority may decline the consent or grant the consent with or without conditions; and

(b) if granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(5) If an activity is described in this Act, regulations (including a national environmental standard), a plan, or a proposed plan as a non-complying activity, a resource consent is required for the activity and the consent authority may—

(a) decline the consent; or

(b) grant the consent, with or without conditions, but only if the consent authority is satisfied that the requirements of section 104D are met and the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

(6) If an activity is described in this Act, regulations (including a national environmental standard), or a plan as a prohibited activity,—

(a) no application for a resource consent may be made for the activity; and

(b) the consent authority must not grant a consent for it.

(7) However, subsection (6) does not apply to a concurrent application lodged under subpart 4 of Part 7A.

Section 87A: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 87A(2)(a): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 87A(6): amended, on 1 October 2011, by section 19(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 87A(7): inserted, on 1 October 2011, by section 19(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 87B Certain activities to be treated as discretionary activities or prohibited activities

(1) An application for a resource consent for an activity must, with the necessary modifications, be treated as an application for a resource consent for a discretionary activity if—

(a) Part 3 requires a resource consent to be obtained for the activity and there is no plan or proposed plan, or no relevant rule in a plan or proposed plan; or

(b) a plan or proposed plan requires a resource consent to be obtained for the activity, but does not classify the activity as controlled, restricted discretionary, discretionary, or non-complying under section 77A; or

(c) a rule in a proposed plan describes the activity as a prohibited activity and the rule has not become operative.

(2) Prospecting, exploring, or mining for Crown owned minerals in the internal waters (as defined in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) of the Coromandel Peninsula must be treated as a prohibited activity.

(3) Subsection (2) does not apply to prospecting, exploring, or mining activities set out in section 61(1A) of the Crown Minerals Act 1991.

(4) Any mining whose main purpose is to mine mercury must be treated as a prohibited activity.

Section 87B: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 87B(4): inserted, on 24 October 2019, by section 129 of the Statutes Amendment Act 2019 (2019 No 56).

### 87BA Boundary activities approved by neighbours on infringed boundaries are permitted activities

(1) A boundary activity is a permitted activity if—

(a) the person proposing to undertake the activity provides to the consent authority—

(i) a description of the activity; and

(ii) a plan (drawn to scale) of the site at which the activity is to occur, showing the height, shape, and location on the site of the proposed activity; and

(iii) the full name and address of each owner of the site; and

(iv) the full name and address of each owner of an allotment with an infringed boundary; and

(b) each owner of an allotment with an infringed boundary—

(i) gives written approval for the activity; and

(ii) signs the plan referred to in paragraph (a)(ii); and

(c) the consent authority notifies the person proposing to undertake the activity that the activity is a permitted activity.

(2) If a person proposing to undertake an activity provides information to a consent authority under this section, the consent authority must,—

(a) if subsection (1)(a) and (b) are satisfied, give a notice under subsection (1)(c); or

(b) if subsection (1)(a) and (b) are not satisfied, notify the person of that fact and return the information to the person.

(3) The consent authority must take the appropriate action under subsection (2) within 10 working days after the date on which it receives the information it needs to make a decision under subsection (2)(a) or (b).

(4) A notice given under this section must be in writing.

(5) If a person has submitted an application for a resource consent for a boundary activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant.

(6) A notice given under subsection (1)(c) lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.

Section 87BA: inserted, on 18 October 2017, by section 135 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 87BB Activities meeting certain requirements are permitted activities

(1) An activity is a permitted activity if—

(a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, regulations (including any national environmental standard), a plan, or a proposed plan; and

(b) any adverse environmental effects of the activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance referred to in paragraph (a); and

(c) any adverse effects of the activity on a person are less than minor; and

(d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity that the activity is a permitted activity.

(2) A consent authority may give a notice under subsection (1)(d)—

(a) after receiving an application for a resource consent for the activity; or

(b) on its own initiative.

(3) The notice must be in writing and must include—

(a) a description of the activity; and

(b) details of the site at which the activity is to occur; and

(c) the consent authority's reasons for considering that the activity meets the criteria in subsection (1)(a) to (c), and the information relied on by the consent authority in making that decision.

(4) If a person has submitted an application for a resource consent for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant.

(5) A notice given under subsection (1)(d) lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.

Section 87BB: inserted, on 18 October 2017, by section 135 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Streamlining decision-making on resource consents*

Heading: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 87C Sections 87D to 87I apply to resource consent applications

(1) Sections 87D to 87I apply when an applicant wants one of the following applications to be determined by the Environment Court instead of by a consent authority:

(a) an application for a resource consent that has been notified:

(b) an application to change or cancel a condition of a resource consent that has been notified.

(2) If the application is called in under section 142(2), sections 87D to 87I cease to apply to it.

Section 87C: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 87D Request for application to go directly to Environment Court

(1) The applicant must request the relevant consent authority to allow the application to be determined by the Environment Court instead of by the consent authority.

(2) The applicant must make the request in the period—

(a) starting on the day on which the application is made; and

(b) ending 5 working days after the date on which the period for submissions on the application closes.

(3) The applicant must make the request electronically or in writing on the prescribed form.

Section 87D: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 87E Consent authority's decision on request

(1) If the consent authority determines under section 88(3) that the application is incomplete, it must return the request with the application without making a decision on the request. Section 88(4) and (5) apply to the application.

(2) If the consent authority receives the request after it has determined that the application will not be notified, it must return the request.

(3) If the consent authority receives the request before it has determined whether the application will be notified, it must defer its decision on the request until after it has decided whether to notify the application and then apply either subsection (4) or (5).

(4) If the consent authority decides not to notify the application, it must return the request.

(5) If the consent authority decides to notify the application, it must give the applicant its decision on the request within 15 working days after the date of the decision on notification.

(6) In any other case, the consent authority must give the applicant its decision on the request within 15 working days after receiving the request.

(6A) Despite the discretion to grant a request under subsection (5) or (6), if regulations have been made under section 360(1)(hm),—

(a) the consent authority must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

(b) that obligation to grant the request does not apply if the consent authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.

(7) No submitter has a right to be heard by the consent authority on a request.

(8) If the consent authority returns or declines the request, it must give the applicant its reasons, in writing or electronically, at the same time as it gives the applicant its decision.

(9) If the consent authority declines the request under subsections (5) to (6A) the applicant may object to the consent authority under section 357A(1)(e).

Section 87E: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 87E(6A): inserted, on 4 September 2013, by section 13(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87E(9): amended, on 4 September 2013, by section 13(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 87F Consent authority's subsequent processing

(1) If the consent authority does not grant the applicant's request under section 87D, the consent authority must continue to process the application.

(2) If the consent authority grants the applicant's request under section 87D, the consent authority must continue to process the application and must comply with subsections (3) to (7).

(3) The consent authority must prepare a report on the application within the longer of the following periods:

(a) the period that ends 20 working days after the date on which the period for submissions on the application closes:

(b) the period that ends 20 working days after the date on which the authority decides to grant the request.

(4) In the report, the consent authority must—

(a) address issues that are set out in sections 104 to 112 to the extent that they are relevant to the application; and

(b) suggest conditions that it considers should be imposed if the Environment Court grants the application; and

(c) provide a summary of submissions received.

(5) As soon as is reasonably practicable after the report is prepared, the consent authority must provide a copy to—

(a) the applicant; and

(b) every person who made a submission on the application.

(6) The consent authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority's report.

(7) In providing that assistance, the consent authority—

(a) is a party to the proceedings; and

(b) must be available to attend hearings to—

(i) discuss or clarify any matter in its report:

(ii) give evidence about its report:

(iii) discuss submissions received and address issues raised by the submissions:

(iv) provide any other relevant information requested by the court.

Section 87F: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 87F(2): amended, on 4 September 2013, by section 14(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87F(4): amended, on 4 September 2013, by section 14(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87F(4)(b): amended, on 4 September 2013, by section 14(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87F(4)(c): inserted, on 4 September 2013, by section 14(4) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87F(6): inserted, on 4 September 2013, by section 14(5) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87F(7): inserted, on 4 September 2013, by section 14(5) of the Resource Management Amendment Act 2013 (2013 No 63).

### 87G Environment Court determines application

(1) Subsection (2) applies to an applicant who—

(a) receives a report provided under section 87F(5); and

(b) continues to want the application to be determined by the Environment Court instead of by a consent authority.

(2) The application is referred to the Environment Court by the applicant,—

(a) within 15 working days after receiving the report, lodging with the Environment Court a notice of motion in the prescribed form applying for the grant of the resource consent (or the change or cancellation of the condition) and specifying the grounds upon which the application for the grant of the resource consent (or the change or cancellation of the condition) is made, and a supporting affidavit as to the matters giving rise to that application; and

(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on—

(i) the consent authority that granted the applicant's request under section 87D; and

(ii) every person who made a submission to the authority on the application; and

(c) telling the Registrar of the Environment Court by written notice when the copies have been served.

(3) A consent authority served under subsection (2)(b)(i) must, without delay, provide the Environment Court with—

(a) the application to which the notice of motion relates; and

(b) the authority's report on the application; and

(c) all the submissions on the application that the authority received; and

(d) all the information and reports on the application that the authority was supplied with.

(4) Section 274 applies to the notice of motion, and any person who has made a submission to the consent authority on the application and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section.

(5) Parts 11 and 11A apply to proceedings under this section.

(6) If considering a matter that is an application for a resource consent, the court must apply sections 104 to 112 and 138A as if it were a consent authority.

(7) If considering a matter that is an application for a change to or cancellation of conditions of a resource consent, the court must apply sections 104 to 112 as if—

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were, respectively, a reference to the change or cancellation of a condition and the effects of the change or cancellation.

(8) However, in the case of an application for a coastal permit for aquaculture activities, for the purposes of section 107F(3)(b) or (c), the consent authority must obtain from the Environment Court any additional information, reports, or submissions not previously forwarded or sent under that section and forward or send the information, report, and submissions to the chief executive of the Ministry of Fisheries.

Section 87G: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 87G(2): replaced, on 4 September 2013, by section 15(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87G(2)(a): amended, on 3 March 2015, by section 90 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87G(4): amended, on 4 September 2013, by section 15(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87G(5): amended, on 4 September 2013, by section 15(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87G(8): inserted, on 1 October 2011, by section 20 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 87H Residual powers of consent authority

The consent authority that would have determined the application had the Environment Court not done so under section 87G has all the functions, duties, and powers in relation to a resource consent granted by the court as if it had granted the consent itself.

Section 87H: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 87I When consent authority must determine application

(1) This section applies when—

(a) an applicant receives a report under section 87F(5); and

(b) either—

(i) the applicant advises the authority that the applicant does not intend to lodge a notice of motion with the Environment Court under section 87G(2); or

(ii) the applicant does not lodge a notice of motion with the Environment Court under section 87G(2).

(c) *[Repealed]*

(2) The application must be determined by the consent authority.

Section 87I: inserted, on 1 October 2009, by section 69 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 87I(1)(b)(ii): amended, on 3 March 2015, by section 91(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 87I(1)(c): repealed, on 3 March 2015, by section 91(2) of the Resource Management Amendment Act 2013 (2013 No 63).

*Application for resource consent*

### 88 Making an application

(1) A person may apply to the relevant consent authority for a resource consent.

(1A) A person may make a joint application for a resource consent and an exchange of recreation reserve land under section 15AA of the Reserves Act 1977 if the relevant consent authority—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the applications may be made jointly.

(2) An application must—

(a) be made in the prescribed form and manner; and

(b) include the information relating to the activity, including an assessment of the activity's effects on the environment, that is required by Schedule 4.

(c) *[Repealed]*

(2A) An application for a coastal permit to undertake an aquaculture activity must include a copy for the Ministry of Fisheries.

(3) A consent authority may, within 10 working days after an application was first lodged, determine that the application is incomplete if the application does not—

(a) include the information prescribed by regulations; or

(b) include the information required by subsection (2)(b).

(3A) The consent authority must immediately return an incomplete application to the applicant, with written reasons for the determination.

(4) If, after an application has been returned as incomplete, that application is lodged again with the consent authority, that application is to be treated as a new application.

(5) Sections 357 to 358 apply to a determination that an application is incomplete.

(6) If a joint application is made under subsection (1A), the application to exchange recreation reserve land must be—

(a) processed, with the resource consent application, in accordance with sections 88 to 88F, 91(1) and (2), 91A to 92B, 95, 95A(2), and 96 to 103B; then

(b) decided under section 15AA of the Reserves Act 1977.

Section 88: replaced, on 1 August 2003, by section 37 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 88(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88(1A): inserted, on 19 April 2017, by section 188(5) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 88(2): replaced, on 3 March 2015, by section 92(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88(2)(b): replaced, on 1 July 2020, by section 25(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88(2)(c): repealed, on 1 July 2020, by section 25(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88(2A): inserted, on 1 October 2011, by section 21 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 88(3): replaced, on 3 March 2015, by section 92(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88(3)(b): replaced, on 18 October 2017, by section 136(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 88(3)(b): amended, on 1 July 2020, by section 25(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88(3A): inserted, on 3 March 2015, by section 92(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88(4): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88(5): amended, on 10 August 2005, by section 50 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 88(6): inserted, on 19 April 2017, by section 188(6) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 88A Description of type of activity to remain the same

(1) Subsection (1A) applies if—

(a) an application for a resource consent has been made under section 88 or 145; and

(b) the type of activity (being controlled, restricted, discretionary, or non-complying) for which the application was made, or that the application was treated as being made under section 87B, is altered after the application was first lodged as a result of—

(i) a proposed plan being notified; or

(ii) a decision being made under clause 10(1) of Schedule 1; or

(iii) otherwise.

(1A) The application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.

(2) Notwithstanding subsection (1), any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b).

(3) *[Repealed]*

Section 88A: inserted, on 17 December 1997, by section 18 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 88A(1): replaced, on 1 August 2003, by section 38(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 88A(1)(a): amended, on 1 October 2009, by section 70(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88A(1)(b): amended, on 1 October 2009, by section 70(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88A(1)(b)(ii): amended, on 1 October 2009, by section 70(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88A(1A): inserted, on 1 August 2003, by section 38(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 88A(2): amended, on 1 August 2003, by section 38(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 88A(3): repealed, on 1 October 2009, by section 70(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 88B Time limits from which time periods are excluded in relation to applications

(1) This section provides for the deferral of certain time limits relating to applications.

(2) The first column of the table lists the provisions specifying time limits from which certain time periods must be excluded.

(3) The second column lists the provisions describing time periods that must be excluded from the corresponding time limits.

| Provisions specifying time limits | Provisions describing time periods to be excluded |
|---|---|
| Section 95 (which relates to the time limit for notification) | Section 88C(2), (4), or (6)<br>Section 88E(2) or (4)<br>Section 88F(2)<br>Section 88G<br>Section 88H |
| Section 87F(3) (which relates to the time limit for a consent authority report on an application to be directly referred to the Environment Court) | Section 88C(4) or (6)<br>Section 88E(2), (6), or (8)<br>Section 88F(2) |

| Provisions specifying time limits | Provisions describing time periods to be excluded |
|---|---|
| Section 101(2) (which relates to the time limit for commencement of a hearing of a non-notified application) | Section 88C(2), (4), or (6)<br>Section 88E(2) or (4)<br>Section 88F(2)<br>Section 88G |
| Section 103A (which relates to the time limit for completion of a hearing of a notified application) | Section 88C(4) or (6)<br>Section 88D(2), (4), or (6)<br>Section 88E(2), (6), or (8)<br>Section 88F(2) |
| Section 115(3) (which relates to the time limit for notification of the decision on a non-notified application for which no hearing is held) | Section 88C(2), (4), or (6)<br>Section 88E(2) or (4)<br>Section 88F(2)<br>Section 88G |
| Section 115(4) (which relates to the time limit for notification of the decision on a notified application for which no hearing is held) | Section 88C(4) or (6)<br>Section 88D(2), (4), or (6)<br>Section 88E(2), (6), or (8)<br>Section 88F(2) |

(4) *See also* section 103(4) and (5) of the Urban Development Act 2020.

Section 88B: replaced, on 3 March 2015, by section 93 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88B(3): amended, on 30 September 2020, by section 26(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88B(3): amended, on 30 September 2020, by section 26(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88B(3): amended, on 30 September 2020, by section 26(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88B(3): amended, on 30 September 2020, by section 26(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88B(4): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

## 88C Excluded time periods relating to provision of further information

*Request for further information*

(1) Subsection (2) applies when—

(a) an authority has requested an applicant, under section 92(1), to provide further information on the applicant's application; and

(b) the request is the first request made by the authority to the applicant under that provision; and

(c) the request is made before the authority decides whether to notify the application.

(2) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date of the request under section 92(1); and

(b) ending as follows:

(i) if the applicant provides the information within 15 working days, the date on which the applicant provides the information:

(ii) if the applicant agrees within 15 working days to provide the information and provides the information, the date on which the applicant provides the information:

(iii) if the applicant agrees within 15 working days to provide the information and does not provide the information, the date set under section 92A(2)(a):

(iv) if the applicant does not respond to the request within 15 working days, the date on which the period of 15 working days ends:

(v) if the applicant refuses within 15 working days to provide the information, the date on which the applicant refuses to provide the information.

*Commissioning of report—applicant agrees*

(3) Subsection (4) applies when—

(a) an authority has notified an applicant, under section 92(2)(b), of its wish to commission a report; and

(b) the applicant agrees, under section 92B(1), to the commissioning of the report.

(4) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date of the notification under section 92(2)(b); and

(b) ending with the date on which the authority receives the report.

*Commissioning of report—applicant disagrees*

(5) Subsection (6) applies when—

(a) an authority has notified an applicant, under section 92(2)(b), of its wish to commission a report; and

(b) the applicant does not agree, under section 92B(1), to the commissioning of the report.

(6) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date of the notification under section 92(2)(b); and

(b) ending with the earlier of the following:

(i) the date on which the period of 15 working days ends; and

(ii) the date on which the authority receives the applicant's refusal, under section 92B(1), to agree to the commissioning of the report.

Section 88C: replaced, on 1 October 2009, by section 71 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88C(1) heading: inserted, on 3 March 2015, by section 94(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(1)(b): replaced, on 3 March 2015, by section 94(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(1)(c): inserted, on 3 March 2015, by section 94(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(2): amended, on 3 March 2015, by section 94(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(3) heading: inserted, on 3 March 2015, by section 94(4) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(4): amended, on 3 March 2015, by section 94(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(5) heading: inserted, on 3 March 2015, by section 94(5) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88C(6): amended, on 3 March 2015, by section 94(3) of the Resource Management Amendment Act 2013 (2013 No 63).

## 88D Excluded time periods relating to direct referral

*Request for direct referral declined and no objection*

(1) Subsection (2) applies when—

(a) an applicant makes a request under section 87D(1); and

(b) the consent authority declines the request under section 87E(5) to (6A); and

(c) the applicant does not object under section 357A(1)(e).

(2) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date on which the consent authority receives the request; and

(b) ending with the date on which the 15 working days referred to in section 357C(1) end.

*Request for direct referral declined and objection dismissed*

(3) Subsection (4) applies when—

(a) an applicant makes a request under section 87D(1); and

(b) the consent authority declines the request under section 87E(5) to (6A); and

(c) the consent authority dismisses the applicant's objection under section 357D.

(4) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date on which the consent authority receives the request; and

(b) ending with the date on which the consent authority notifies the applicant of its decision to dismiss the objection.

*Request for direct referral granted or objection upheld*

(5) Subsection (6) applies when—

(a) an applicant makes a request under section 87D(1); and

(b) either—

(i) the consent authority grants the request under section 87E(5) to (6A); or

(ii) the consent authority declines the request under section 87E(5) to (6A), but upholds the applicant's objection under section 357D.

(6) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date on which the consent authority receives the request; and

(b) ending with the earlier of the following:

(i) the date on which the 15 working days referred to in section 87G(2)(a) end; and

(ii) the date on which the applicant advises the consent authority that the applicant does not intend to lodge a notice of motion with the Environment Court under section 87G(2).

Section 88D: replaced, on 3 March 2015, by section 95 of the Resource Management Amendment Act 2013 (2013 No 63).

### 88E Excluded time periods relating to other matters

*Deferral pending application for additional consents*

(1) Subsection (2) applies when a consent authority determines, under section 91(1), not to proceed with the notification or hearing of an application for a resource consent.

(2) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date of the notification of the determination to the applicant under section 91(2); and

(b) ending with—

(i) the date of the receipt of applications for the resource consents that the authority considers, under section 91(1)(b), should be applied for; or

(ii) the date of an Environment Court order revoking the authority's determination.

*Approval sought from affected persons or groups*

(3) Subsection (4) applies when an applicant tries, for the purposes of section 95E(3), 95F, or 95G, to obtain approval for an activity from any person or group that may otherwise be considered an affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.

(4) The period that must be excluded from every applicable time limit under section 88B is the time taken by the applicant in trying to obtain the approvals, whether or not they are obtained.

*Referral to mediation*

(5) Subsection (6) applies when a consent authority refers persons to mediation under section 99A.

(6) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date of the reference; and

(b) ending with the earlier of the following:

(i) the date on which one of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person's consent to the mediation; and

(ii) the date on which the mediator reports the outcome of the mediation to the authority.

*Suspension of processing of notified application*

(7) Subsection (8) applies when the processing of an application is suspended under section 91A.

(8) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date on which the suspension started:

(b) ending with the date on which the suspension ceased.

Section 88E: inserted, on 1 October 2009, by section 71 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 88E(1) heading: inserted, on 3 March 2015, by section 96(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(2): amended, on 3 March 2015, by section 96(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(3) heading: inserted, on 3 March 2015, by section 96(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(3): replaced, on 3 March 2015, by section 96(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(4): amended, on 3 March 2015, by section 96(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(5) heading: inserted, on 3 March 2015, by section 96(4) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(6): amended, on 3 March 2015, by section 96(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(7) heading: inserted, on 3 March 2015, by section 96(5) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(7) heading: amended, on 30 September 2020, by section 27 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 88E(7): inserted, on 3 March 2015, by section 96(5) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88E(8): inserted, on 3 March 2015, by section 96(5) of the Resource Management Amendment Act 2013 (2013 No 63).

### 88F Excluded time periods relating to pre-request aquaculture agreements

(1) Subsection (2) applies when—

(a) an application has been made for a coastal permit to undertake aquaculture activities in the coastal marine area; and

(b) the applicant requests the consent authority to defer determining the application so that the applicant can negotiate a pre-request aquaculture agreement under section 186ZM of the Fisheries Act 1996; and

(c) it is the first request made by the applicant for that purpose.

(2) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting with the date on which the request is made; and

(b) ending with the earlier of the following:

(i) the 80th working day after the date on which the request is made:

(ii) the date on which the applicant notifies the consent authority that the applicant wishes the consent authority to continue determining the application that the request related to.

Section 88F: inserted, on 1 October 2011, by section 22 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 88F heading: replaced, on 3 March 2015, by section 97(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 88F(2): amended, on 3 March 2015, by section 97(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 88G Exclusion of period when processing of non-notified application suspended

(1) Subsection (2) applies when a non-notified application is suspended under section 91D.

(2) The period that must be excluded from every applicable time limit under section 88B is the period—

(a) starting from the date on which the suspension started; and

(b) ending on the date on which the suspension ceased.

Section 88G: inserted, on 30 September 2020, by section 28 of the Resource Management Amendment Act 2020 (2020 No 30).

### 88H Excluded time periods relating to non-payment of administrative charges

(1) Subsection (2) applies if—

(a) an application for a resource consent is lodged with a consent authority; and

(b) a charge fixed under section 36 is payable when the application is lodged or when the application is notified by the consent authority under section 95; and

(c) the applicant does not pay the charge when it is payable.

(2) The consent authority may exclude from every applicable time limit in section 95, the period—

(a) starting from the date on which payment is due; and

(b) ending on the date on which payment is made.

Section 88H: inserted, on 30 September 2020, by section 28 of the Resource Management Amendment Act 2020 (2020 No 30).

### 88I Excluded time periods under Urban Development Act 2020

The period described in section 103(4) of the Urban Development Act 2020 is excluded from any time limits under this Act relating to a consent application received by a local authority.

Section 88I: inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

### 89 Applications to territorial authorities for resource consents where land is in coastal marine area

(1) Where an application for a subdivision consent is made to a territorial authority and any part, or all, of the land proposed to be subdivided is in the coastal marine area, the territorial authority shall decide the application as if the whole of that land were part of the district, and the provisions of this Act shall apply accordingly.

(2) Where—

(a) an application is made to a territorial authority for a resource consent for an activity which an applicant intends to undertake within the district of that authority once the proposed location of the activity has been reclaimed; and

(b) on the date the application is made the proposed location of the activity is still within the coastal marine area,—

then the authority may hear and decide the application as if the application related to an activity within its district, and the provisions of this Act shall apply accordingly.

(3) Section 116(2) shall apply to every resource consent that is granted in accordance with subsection (2).

Section 89 heading: amended, on 7 July 1993, by section 45 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 89(1): amended, on 7 July 1993, by section 45(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 89(1): amended, on 7 July 1993, by section 45(b) of the Resource Management Amendment Act 1993 (1993 No 65).

### 89A Applications affecting navigation to be referred to Maritime New Zealand

(1) This section applies to the following applications:

(a) an application for a coastal permit to do any of the following in the coastal marine area:

(i) reclaim land:

(ii) build a structure:

(iii) do or maintain works for the improvement, management, protection, or utilisation of a harbour:

(b) an application for a coastal permit to remove boulders, mud, sand, shell, shingle, silt, stone, or other similar material from the coastal marine area:

(c) an application for a land use consent to enter onto or pass across the surface of water in a navigable lake or river:

(d) an application for a land use consent to use the bed of a navigable lake or river.

(2) The local authority must send a copy of the application to Maritime New Zealand.

(3) Maritime New Zealand must report to the local authority on any navigation-related matters that Maritime New Zealand considers relevant to the application, including any conditions that it considers should be included in the consent for navigation-related purposes.

(4) If Maritime New Zealand wants to report, it must do so within 15 working days after receiving a copy of the application. If it fails to report within that time limit, the local authority may take the failure as an indication that Maritime New Zealand has nothing to report.

(5) The local authority must—

(a) ensure that a copy of Maritime New Zealand's report is provided to—

(i) the applicant; and

(ii) every person who has made a submission on the application:

(b) take the report into account in its consideration of the application.

Section 89A: inserted, on 1 October 2009, by section 72 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 90 Distribution of application to other authorities

*[Repealed]*

Section 90: repealed, on 1 August 2003, by section 40 of the Resource Management Amendment Act 2003 (2003 No 23).

### 91 Deferral pending application for additional consents

(1) A consent authority may determine not to proceed with the notification or hearing of an application for a resource consent if it considers on reasonable grounds that—

(a) other resource consents under this Act will also be required in respect of the proposal to which the application relates; and

(b) it is appropriate, for the purpose of better understanding the nature of the proposal, that applications for any 1 or more of those other resource consents be made before proceeding further.

(2) Where a consent authority makes a determination under subsection (1), it shall forthwith notify the applicant of the determination.

(3) The applicant may apply to the Environment Court for an order directing that any determination under this section be revoked.

Section 91(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 91A Applicant may have processing of notified application suspended

(1) A consent authority must suspend the processing of a notified application when a request is received in accordance with this section.

(2) The applicant may request the consent authority to suspend the processing of an application at any time in the period—

(a) starting when the application is notified; and

(b) ending when—

(i) the hearing is completed, if a hearing is held for the application; or

(ii) the consent authority gives notice to the applicant of its decision on the application, if a hearing is not held for the application.

(3) However, a request must not be made if—

(a) the applicant has lodged a notice of motion with the Environment Court under section 87G(2)(a); or

(b) the Minister has made a direction under section 142(2) in relation to the application; or

(c) a total of 130 or more working days have been excluded from time limits under section 88B in relation to the application (which, under section 88E(8), includes time during which the application has been suspended).

(4) The request must be made by written or electronic notice.

(5) If processing is suspended under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension started.

Section 91A: inserted, on 3 March 2015, by section 98 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 91A heading: amended, on 30 September 2020, by section 29 of the Resource Management Amendment Act 2020 (2020 No 30).

### 91B When suspension of processing of notified application ceases

(1) A consent authority must cease to suspend the processing of a notified application when—

(a) a request is received in accordance with this section; or

(b) the applicant lodges a notice of motion with the Environment Court under section 87G(2)(a); or

(c) the Minister makes a direction under section 142(2) in relation to the application; or

(d) the consent authority decides under section 91C to continue to process the application.

(2) The applicant may request the consent authority to cease to suspend the processing of a notified application if it is currently suspended.

(3) The request must be made by written or electronic notice.

(4) If a suspension is ceased under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension ceased.

Section 91B: inserted, on 3 March 2015, by section 98 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 91B heading: amended, on 30 September 2020, by section 30(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 91B(1): amended, on 30 September 2020, by section 30(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 91B(2): amended, on 30 September 2020, by section 30(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### 91C Notified application may be returned if suspended after certain period

(1) Subsection (2) applies if—

(a) a total of 130 or more working days have been excluded from time limits under section 88B in relation to a notified application (which, under sec-

tion 88E(8), includes time during which the application has been suspended); and

(b) the application is suspended at the time.

(2) The consent authority must decide to—

(a) return the application to the applicant; or

(b) continue to process the application.

(3) If the consent authority decides to return the application,—

(a) it must be returned together with a written explanation as to why it is being returned; but

(b) the applicant may object to the consent authority under section 357(3A).

(4) If, after an application has been returned, the application is lodged again with the consent authority, the application is to be treated as a new application.

Section 91C: inserted, on 3 March 2015, by section 98 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 91C heading: amended, on 30 September 2020, by section 31(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 91C(1)(a): amended, on 30 September 2020, by section 31(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### 91D Applicant may have processing of non-notified application suspended

(1) A consent authority must suspend the processing of a non-notified application when a request is received in accordance with this section.

(2) The applicant may request the consent authority to suspend the processing of a non-notified application at any time in the period—

(a) starting on the date on which the application is first lodged with the authority; and

(b) ending when—

(i) the hearing is completed, if a hearing is held for the application; or

(ii) the consent authority gives notice to the applicant of its decision on the application, if a hearing is not held for the application; or

(iii) the application is notified.

(3) However, a request must not be made if—

(a) the applicant has lodged a notice of motion with the Environment Court under section 87G(2)(a); or

(b) the Minister has made a direction under section 142(2) in relation to the application; or

(c) a total of 20 working days have been excluded from time limits under section 88B as a result of any previous request under this section in relation to the application.

(4) The request must be made by written or electronic notice.

(5) If processing is suspended under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension started.

Section 91D: inserted, on 30 September 2020, by section 32 of the Resource Management Amendment Act 2020 (2020 No 30).

### 91E When suspension of processing of non-notified application ceases

(1) A consent authority must cease to suspend the processing of a non-notified application when—

(a) a request is received in accordance with this section; or

(b) the applicant lodges a notice of motion with the Environment Court under section 87G(2)(a); or

(c) the Minister makes a direction under section 142(2) in relation to the application; or

(d) the consent authority decides under section 91F to continue to process the application.

(2) The applicant may request the consent authority to cease to suspend the processing of a non-notified application if it is currently suspended.

(3) The request must be made by written or electronic notice.

(4) If a suspension is ceased under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension ceased.

Section 91E: inserted, on 30 September 2020, by section 32 of the Resource Management Amendment Act 2020 (2020 No 30).

### 91F Non-notified application may be returned after certain period

(1) Subsection (2) applies if the processing of the non-notified application has been suspended for a total of 20 working days in response to 1 or more requests under section 91D.

(2) The consent authority must decide to—

(a) return the application to the applicant; or

(b) continue to process the application.

(3) If the consent authority decides to return the application,—

(a) it must be returned together with a written explanation as to why it is being returned; but

(b) the applicant may object to the consent authority under section 357(3A).

(4) If, after an application has been returned, the application is lodged again with the consent authority, the application is to be treated as a new application.

Section 91F: inserted, on 30 September 2020, by section 32 of the Resource Management Amendment Act 2020 (2020 No 30).

*Further information*

### 92 Further information, or agreement, may be requested

(1) A consent authority may, at any reasonable time before the hearing of an application for a resource consent or before the decision to grant or refuse the application (if there is no hearing), by written notice, request the applicant for the consent to provide further information relating to the application.

(2) At any reasonable time before a hearing or, if no hearing is to be held, before the decision is made, a consent authority may commission any person to prepare a report on any matter relating to an application, including information provided by the applicant in the application or under this section, if all the following apply:

(a) the activity for which the resource consent is sought may, in the authority's opinion, have a significant adverse environmental effect; and

(b) the applicant is notified before the authority commissions the report; and

(c) the applicant does not refuse, under section 92B(1), to agree to the commissioning of the report.

(3) The consent authority must notify the applicant, in writing, of its reasons for—

(a) requesting further information under subsection (1); or

(b) wanting to commission a report under subsection (2).

(3A) The information or report must be available at the office of the consent authority no later than 10 working days before the hearing of an application. This subsection does not apply if—

(a) the applicant refuses, under section 92A, to provide the further information; or

(b) the applicant refuses, under section 92B, to agree to the commissioning of the report.

(3B) The consent authority must, as soon as is reasonably practicable after receiving the information or report, give written or electronic notice to every person who made a submission on the application that the information or report is available at the authority's office.

(4) This section does not apply to reports prepared under section 42A.

(5) *[Repealed]*

Section 92: replaced, on 1 August 2003, by section 41 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 92 heading: replaced, on 10 August 2005, by section 52(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92(1): amended, on 10 August 2005, by section 52(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92(2): replaced, on 10 August 2005, by section 52(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92(3): replaced, on 10 August 2005, by section 52(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92(3A): inserted, on 10 August 2005, by section 52(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92(3B): inserted, on 1 October 2009, by section 73(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92(5): repealed, on 1 October 2009, by section 73(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 92A Responses to request

(1) An applicant who receives a request under section 92(1) must, within 15 working days of the date of the request, take one of the following options:

(a) provide the information; or

(b) tell the consent authority in a written notice that the applicant agrees to provide the information; or

(c) tell the consent authority in a written notice that the applicant refuses to provide the information.

(2) A consent authority that receives a written notice under subsection (1)(b) must—

(a) set a reasonable time within which the applicant must provide the information; and

(b) tell the applicant in a written notice the date by which the applicant must provide the information.

(3) The consent authority must consider the application under section 104 even if the applicant—

(a) does not respond to the request; or

(b) agrees to provide the information under subsection (1)(b) but does not do so; or

(c) refuses to provide the information under subsection (1)(c).

(4) *[Repealed]*

(5) *[Repealed]*

(6) *[Repealed]*

Section 92A: inserted, on 10 August 2005, by section 53 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92A(3): replaced, on 1 October 2009, by section 74 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92A(4): repealed, on 1 October 2009, by section 74 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92A(5): repealed, on 1 October 2009, by section 74 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92A(6): repealed, on 1 October 2009, by section 74 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 92B Responses to notification

(1) An applicant who receives a notification under section 92(2)(b) must, within 15 working days of the date of the notification, tell the consent authority in a written notice whether the applicant agrees to the commissioning of the report.

(2) The consent authority must consider the application under section 104 even if the applicant—

(a) does not respond in accordance with subsection (1); or

(b) refuses to agree to the commissioning of the report.

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

Section 92B: inserted, on 10 August 2005, by section 53 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 92B(2): replaced, on 1 October 2009, by section 75 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92B(3): repealed, on 1 October 2009, by section 75 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92B(4): repealed, on 1 October 2009, by section 75 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 92B(5): repealed, on 1 October 2009, by section 75 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## *Notification of applications*

## *[Repealed]*

Heading: repealed, on 1 August 2003, by section 41 of the Resource Management Amendment Act 2003 (2003 No 23).

### 93 When public notification of consent applications is required

*[Repealed]*

Section 93: repealed, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 94 When public notification of consent applications is not required

*[Repealed]*

Section 94: repealed, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 94A Forming opinion as to whether adverse effects are minor or more than minor

*[Repealed]*

Section 94A: repealed, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 94B Forming opinion as to who may be adversely affected

*[Repealed]*

Section 94B: repealed, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 94C Public notification if applicant requests or if special circumstances exist

*[Repealed]*

Section 94C: repealed, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 94D When public notification and service requirements may be varied

*[Repealed]*

Section 94D: repealed, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## *Public notification and limited notification of applications*

Heading: inserted, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 95 Time limit for public notification or limited notification

(1) A consent authority must, within the time limit specified in subsection (2),—

(a) decide, in accordance with sections 95A and 95B, whether to give public or limited notification of an application for a resource consent; and

(b) notify the application if it decides to do so.

(2) The time limit is,—

(a) in the case of a fast-track application, 10 working days after the day the application is first lodged; and

(b) in the case of any other application, 20 working days after the day the application is first lodged.

Section 95: replaced, on 18 October 2017, by section 137 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 95A Public notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

*Step 1: mandatory public notification in certain circumstances*

(2) Determine whether the application meets any of the criteria set out in subsection (3) and,—

(a) if the answer is yes, publicly notify the application; and

(b) if the answer is no, go to step 2.

(3) The criteria for step 1 are as follows:

(a) the applicant has requested that the application be publicly notified:

(b) public notification is required under section 95C:

(c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

*Step 2: if not required by step 1, public notification precluded in certain circumstances*

(4) Determine whether the application meets either of the criteria set out in subsection (5) and,—

(a) if the answer is yes, go to step 4 (step 3 does not apply); and

(b) if the answer is no, go to step 3.

(5) The criteria for step 2 are as follows:

(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:

(b) the application is for a resource consent for 1 or more of the following, but no other, activities:

(i) a controlled activity:

(ii) *[Repealed]*

(iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity.

(iv) *[Repealed]*

(6) *[Repealed]*

*Step 3: if not precluded by step 2, public notification required in certain circumstances*

(7) Determine whether the application meets either of the criteria set out in subsection (8) and,—

(a) if the answer is yes, publicly notify the application; and

(b) if the answer is no, go to step 4.

(8) The criteria for step 3 are as follows:

(a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification:

(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

*Step 4: public notification in special circumstances*

(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

(a) if the answer is yes, publicly notify the application; and

(b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.

Section 95A: replaced, on 18 October 2017, by section 137 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 95A(5)(b)(ii): repealed, on 30 September 2020, by section 33(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 95A(5)(b)(iv): repealed, on 30 September 2020, by section 33(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 95A(6): repealed, on 30 September 2020, by section 33(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### 95B Limited notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

*Step 1: certain affected groups and affected persons must be notified*

(2) Determine whether there are any—

(a) affected protected customary rights groups; or

(b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).

(3) Determine—

(a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and

(b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.

(4) Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).

*Step 2: if not required by step 1, limited notification precluded in certain circumstances*

(5) Determine whether the application meets either of the criteria set out in subsection (6) and,—

(a) if the answer is yes, go to step 4 (step 3 does not apply); and

(b) if the answer is no, go to step 3.

(6) The criteria for step 2 are as follows:

(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification:

(b) the application is for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land).

*Step 3: if not precluded by step 2, certain other affected persons must be notified*

(7) In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.

(8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.

(9) Notify each affected person identified under subsections (7) and (8) of the application.

*Step 4: further notification in special circumstances*

(10) Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons), and,—

(a) if the answer is yes, notify those persons; and

(b) if the answer is no, do not notify anyone else.

Section 95B: replaced, on 18 October 2017, by section 137 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 95B(6)(b): replaced, on 1 July 2020, by section 34(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 95B(7): replaced, on 1 July 2020, by section 34(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### 95C Public notification of consent application after request for further information or report

(1) A consent authority must publicly notify an application for a resource consent (*see* section 95A(2) and (3)) if—

(a) it has not already decided whether to give public or limited notification of the application; and

(b) subsection (2) or (3) applies.

(2) This subsection applies if the consent authority requests further information on the application under section 92(1), but the applicant—

(a) does not provide the information before the deadline concerned; or

(b) refuses to provide the information.

(3) This subsection applies if the consent authority notifies the applicant under section 92(2)(b) that it wants to commission a report, but the applicant—

(a) does not respond before the deadline concerned; or

(b) refuses to agree to the commissioning of the report.

(4) This section applies despite any rule or national environmental standard that precludes public or limited notification of the application.

Section 95C: inserted, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 95C(1): amended, on 18 October 2017, by section 138 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 95D Consent authority decides if adverse effects likely to be more than minor

A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—

(a) must disregard any effects on persons who own or occupy—

(i) the land in, on, or over which the activity will occur; or

(ii) any land adjacent to that land; and

(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and

(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and

(d) must disregard trade competition and the effects of trade competition; and

(e) must disregard any effect on a person who has given written approval to the relevant application.

Section 95D: inserted, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 95D: amended, on 18 October 2017, by section 139(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 95D(c): amended, on 18 October 2017, by section 139(2)(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 95D(c): amended, on 18 October 2017, by section 139(2)(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 95E Consent authority decides if person is affected person

(1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an **affected person** if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).

(2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,—

(a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and

(b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and

(c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

(3) A person is not an affected person in relation to an application for a resource consent for an activity if—

(a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or

(b) the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.

(4) Subsection (3) prevails over subsection (1).

Section 95E: replaced, on 18 October 2017, by section 140 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 95F Meaning of affected protected customary rights group

A protected customary rights group is an **affected protected customary rights group**, in relation to an activity in the protected customary rights area relevant to that group, if—

(a) the activity may have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) the protected customary rights group has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the consent authority before the authority has made a decision under this section.

Section 95F: replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 95F heading: amended, on 18 October 2017, by section 141(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 95F: amended, on 18 October 2017, by section 141(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 95G Meaning of affected customary marine title group

A customary marine title group is an **affected customary marine title group**, in relation to an accommodated activity in the customary marine title area relevant to that group, if—

(a) the activity may have adverse effects on the exercise of the rights applying to a customary marine title group under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) the customary marine title group has not given written approval for the activity in a written notice received by the consent authority before the authority has made a decision under this section.

Section 95G: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 95G heading: amended, on 18 October 2017, by section 142(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 95G: amended, on 18 October 2017, by section 142(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Submissions on applications*

### 96 Making submissions

(1) If an application for a resource consent is publicly notified, a person described in subsection (2) may make a submission about it to the consent authority.

(2) Any person may make a submission, but the person's right to make a submission is limited by section 308B if the person is a person A as defined in section 308A and the applicant is a person B as defined in section 308A.

(3) If an application for a resource consent is the subject of limited notification, a person described in subsection (4) may make a submission about it to the consent authority.

(4) A person served with notice of the application may make a submission, but the person's right to make a submission is limited by section 308B if the person is a person A as defined in section 308A and the applicant is a person B as defined in section 308A.

(5) A submission must be in the prescribed form.

(6) A submission must be served—

(a) on the consent authority within the time allowed by section 97; and

(b) on the applicant as soon as is reasonably practicable after service on the consent authority.

(7) A submission may state whether—

(a) it supports the application; or

(b) it opposes the application; or

(c) it is neutral.

Section 96: replaced, on 1 October 2009, by section 77 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 97 Time limit for submissions

(1) This section specifies the closing date for serving submissions on a consent authority that has notified an application.

(2) If public notification was given, the closing date is the 20th working day after the date of public notification.

(3) If limited notification was given, the closing date is the 20th working day after the date of limited notification.

(4) However, if limited notification was given, the consent authority may adopt as an earlier closing date the day on which the consent authority has received from all affected persons a submission, written approval for the application, or written notice that the person will not make a submission.

Section 97: replaced, on 3 March 2015, by section 100 of the Resource Management Amendment Act 2013 (2013 No 63).

### 98 Advice of submissions to applicant

As soon as reasonably practicable after the closing date for submissions, the consent authority shall provide the applicant with a list of all submissions received by it.

*Pre-hearing meetings and mediation*

Heading: amended, on 10 August 2005, by section 57(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 99 Pre-hearing meetings

(1) A consent authority may invite or require a person who has made an application for a resource consent and some or all of the persons who have made submissions on the application to attend a meeting with the following:

(a) each other or one another; and

(b) the authority; and

(c) anyone else whose presence at the meeting the authority considers appropriate.

(2) The authority may invite or require persons to attend a meeting—

(a) either—

(i) at the request of 1 or more of the persons; or

(ii) on its own initiative; and

(b) only for the purpose of—

(i) clarifying a matter or issue; or

(ii) facilitating resolution of a matter or issue.

(3) The authority may require persons to attend a meeting only with the consent of the person who made the application.

(4) A person who is a member, delegate, or officer of the authority, and who has the power to make the decision on the application that is the subject of the meeting, may attend and participate if—

(a) the authority is satisfied that its member, delegate, or officer should be able to attend and participate; and

(b) all the persons at the meeting agree.

(5) The chairperson of the meeting must, before the hearing, prepare a report that—

(a) does not include anything communicated or made available at the meeting on a without prejudice basis; and

(b) for the parties who attended the meeting,—

(i) sets out the issues that were agreed; and

(ii) sets out the issues that are outstanding; and

(c) for all the parties,—

(i) may set out the nature of the evidence that the parties are to call at the hearing; and

(ii) may set out the order in which the parties are to call the evidence at the hearing; and

(iii) may set out a proposed timetable for the hearing.

(6) The chairperson of the meeting must, before the hearing, send the report to the authority and all the parties so that they have it at least 5 working days before the hearing.

(7) The consent authority must have regard to the report in making its decision on the application.

(8) If a person required to attend a meeting fails to do so, and does not give a reasonable excuse, the consent authority may decline—

(a) to process the person's application; or

(b) to consider the person's submission.

(9) If the consent authority declines, under subsection (8)(a), to process the person's application,—

(a) the person may not appeal under section 120 against the decision; and

(b) the person may object under section 357A against the decision.

(10) If the consent authority declines, under subsection (8)(b), to consider the person's submission, the person—

(a) may not appeal under section 120 against—

(i) the decision to decline to consider the submission; or

(ii) the decision on the application; and

(b) may not become under section 274 a party to proceedings; and

(c) may object under section 357A against the decision to decline to consider the submission.

Section 99: replaced, on 10 August 2005, by section 57(2) of the Resource Management Amendment Act 2005 (2005 No 87).

### 99A Mediation

(1) A consent authority may refer to mediation a person who has made an application for a resource consent and some or all of the persons who have made submissions on the application.

(2) The authority may exercise the power in subsection (1)—

(a) either—

(i) at the request of one of the persons; or

(ii) on its own initiative; and

(b) only with the consent of all the persons being referred; and

(c) only for the purpose of mediating between the persons on a matter or issue.

(3) Mediation under this section must be conducted by—

(a) a person to whom the authority delegates, under section 34A, the power to mediate; or

(b) a person whom the authority appoints to mediate, if the authority is the person who has made an application for a resource consent.

(4) The person who conducts the mediation must report the outcome of the mediation to the consent authority.

Section 99A: inserted, on 10 August 2005, by section 58 of the Resource Management Amendment Act 2005 (2005 No 87).

## *Hearings*

### 100 Obligation to hold a hearing

A hearing need not be held in accordance with this Act in respect of an application for a resource consent unless—

(a) the consent authority considers that a hearing is necessary; or

(b) either the applicant or a person who made a submission in respect of that application has requested to be heard and has not subsequently advised that he or she does not wish to be heard.

Section 100: amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

### 100A Hearing by commissioner if requested by applicant or submitter

(1) This section applies in relation to an application for a resource consent if—

(a) the application is notified; and

(b) in accordance with section 100, a hearing of the application is to be held.

(2) The applicant, or a person who makes a submission on the application, may request in writing that a local authority delegate its functions, powers, and duties required to hear and decide the application in accordance with subsection (4).

(3) The request must be made no later than 5 working days after the closing date for submissions on the application.

(4) If the local authority receives a request under subsection (2), it must delegate, under section 34A(1), its functions, powers, and duties required to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority.

Section 100A: inserted, on 1 October 2009, by section 78 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 101 Hearing date and notice

(1) If a hearing of an application for a resource consent is to be held, the consent authority shall fix a commencement date and time, and the place, of the hearing.

(2) If the application was not notified, the date for the commencement of the hearing must be within 35 working days after the date the application was first lodged with the consent authority.

(2A) *[Repealed]*

(3) The consent authority shall give at least 10 working days' notice of the commencement date and time, and the place, of a hearing of an application for a resource consent to—

(a) the applicant; and

(b) every person who made a submission on the application stating his or her wish to be heard and who has not subsequently advised that he or she does not wish to be heard.

(4) Where a joint hearing is to be held under section 102 the consent authorities concerned shall ensure that every applicant and every person who made a submission is aware of the joint hearing.

Section 101(2): replaced, on 3 March 2015, by section 101 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 101(2A): repealed, on 1 October 2009, by section 79 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 101(4): amended, on 7 July 1993, by section 51(3) of the Resource Management Amendment Act 1993 (1993 No 65).

### 102 Joint hearings by 2 or more consent authorities

(1) Where applications for resource consents in relation to the same proposal have been made to 2 or more consent authorities, and those consent authorities have

decided to hear the applications, the consent authorities shall jointly hear and consider those applications unless—

(a) all the consent authorities agree that the applications are sufficiently unrelated that a joint hearing is unnecessary; and

(b) the applicant agrees that a joint hearing need not be held.

(2) When a joint hearing is to be held, the regional council for the area concerned shall be responsible for notifying the hearing, setting the procedure, and providing administrative services, unless the consent authorities involved in the hearing agree that another authority should be so responsible.

(3) Where 2 or more consent authorities jointly hear applications for resource consents, they shall jointly decide those applications unless—

(a) any application is for a restricted coastal activity; or

(b) any of the consent authorities consider on reasonable grounds that it is not appropriate to do so.

(4) Where 2 or more consent authorities jointly decide applications for a resource consent in accordance with subsection (3), they shall identify in their decision on those applications—

(a) their respective responsibilities for the administration of any consents granted, including monitoring and enforcement; and

(b) the manner in which administrative charges will be allocated between the consent authorities,—

and any consent shall be issued by the relevant consent authority accordingly.

(4A) Where 2 or more consent authorities separately decide applications, and all the consent authorities have agreed to grant a resource consent, they shall ensure any conditions to be imposed are not inconsistent with each other.

(5) In any appeal under section 120 against a joint decision under subsection (4), the respondent shall be the consent authority whose consent is the subject of the appeal.

(6) This section shall also apply to any other matter the consent authorities are empowered to decide or recommend on under this Act in relation to the same proposal.

(7) If a consent authority delegates its functions, powers, and duties in relation to a matter to 1 or more hearings commissioners in accordance with section 100A, and a joint hearing under this section includes the matter, then those commissioners must represent the consent authority in the joint hearing in relation to the matter.

Section 102(4A): inserted, on 7 July 1993, by section 52(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 102(6): inserted, on 7 July 1993, by section 52(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 102(7): inserted, on 1 October 2009, by section 80 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 103 Combined hearings in respect of 2 or more applications

(1) Where 2 or more applications for resource consents in relation to the same proposal have been made to a consent authority, and that consent authority has decided to hear the applications, the consent authority shall hear and decide those applications together unless—

(a) the consent authority is of the opinion that the applications are sufficiently unrelated so that it is unnecessary to hear and decide the applications together; and

(b) the applicant agrees that a combined hearing need not be held.

(2) This section shall also apply to any other matter the consent authority is empowered to decide or recommend on under this Act in relation to the same proposal.

(3) If a consent authority delegates its functions, powers, and duties in relation to a matter to 1 or more hearings commissioners in accordance with section 100A, and the matter is to be heard and decided together with other matters under this section, then all of the matters must be heard and decided by those commissioners.

Section 103(2): inserted, on 7 July 1993, by section 53 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 103(3): inserted, on 1 October 2009, by section 81 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 103A Time limit for completion of hearing of notified application

(1) This section applies to a hearing of an application for a resource consent that was notified.

(2) If public notification was given, the hearing must be completed no later than 75 working days after the closing date for submissions on the application.

(3) If limited notification was given, the hearing must be completed no later than 45 working days after the closing date for submissions on the application.

Section 103A: replaced, on 3 March 2015, by section 102 of the Resource Management Amendment Act 2013 (2013 No 63).

### 103B Requirement to provide report and other evidence before hearing

(1) This section applies to a hearing of an application for a resource consent that was notified.

(2) The consent authority must provide the following (the **authority's evidence**) to the applicant, and to every person who made a submission and stated a wish to be heard at the hearing, at least 15 working days before the hearing:

(a) a copy of any written report prepared under section 42A(1); and

(b) briefs of any other evidence to be called by the authority.

(3) The applicant must provide briefs of evidence (the **applicant's evidence**) to the consent authority at least 10 working days before the hearing.

(4) A person who has made a submission and who is intending to call expert evidence must provide briefs of the evidence (the **submitter's evidence**) to the consent authority and the applicant at least 5 working days before the hearing.

(5) The consent authority must make the following available at its office to the persons specified:

(a) the authority's evidence, to any person who made a submission and did not state a wish to be heard:

(b) the applicant's evidence, to any person who made a submission:

(c) any submitter's evidence, to any other person who made a submission.

(6) The consent authority must give written or electronic notice that evidence is available at its office to each person to whom the evidence is made available.

(7) This section overrides sections 41B and 42A(3) to (5).

Section 103B: inserted, on 3 March 2015, by section 102 of the Resource Management Amendment Act 2013 (2013 No 63).

*Decisions*

### 104 Consideration of applications

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and section 77M, have regard to–

(a) any actual and potential effects on the environment of allowing the activity; and

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of—

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if

a national environmental standard or the plan permits an activity with that effect.

(2A) When considering an application affected by section 124 or 165ZH(1)(c), the consent authority must have regard to the value of the investment of the existing consent holder.

(2B) When considering a resource consent application for an activity in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a consent authority must have regard to any resource management matters set out in that planning document.

(2C) Subsection (2B) applies until such time as the regional council, in the case of a consent authority that is a regional council, has completed its obligations in relation to its regional planning documents under section 93 of the Marine and Coastal Area (Takutai Moana) Act 2011.

(2D) When considering a resource consent application that relates to a wastewater network, as defined in section 5 of the Water Services Act 2021, a consent authority—

(a) must not grant the consent contrary to a wastewater environmental performance standard made under section 138 of that Act; and

(b) must include, as a condition of granting the consent, requirements that are no less restrictive than is necessary to give effect to the wastewater environmental performance standard.

(3) A consent authority must not,—

(a) when considering an application, have regard to—

(i) trade competition or the effects of trade competition; or

(ii) any effect on a person who has given written approval to the application:

(b) *[Repealed]*

(c) grant a resource consent contrary to—

(i) section 107, 107A, or 217:

(ii) an Order in Council in force under section 152:

(iii) any regulations:

(iv) wāhi tapu conditions included in a customary marine title order or agreement:

(v) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011:

(d) grant a resource consent if the application should have been notified and was not.

(3A) *See also* section 103(3) of the Urban Development Act 2020 (which relates to resource consents in project areas in transitional periods for specified development projects (as those terms are defined in section 9 of that Act)).

(4) A consent authority considering an application must ignore subsection (3)(a)(ii) if the person withdraws the approval in a written notice received by the consent authority before the date of the hearing, if there is one, or, if there is not, before the application is determined.

(5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.

(6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.

(7) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.

Section 104: replaced, on 1 August 2003, by section 44 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 104(1): amended, on 21 December 2021, by section 13 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 104(1)(ab): inserted, on 18 October 2017, by section 143 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 104(1)(b): replaced, on 1 October 2009, by section 83(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(2): amended, on 1 October 2009, by section 83(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(2A): inserted, on 10 August 2005, by section 59 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 104(2A): amended, on 1 October 2011, by section 23(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 104(2B): inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 104(2B): amended, on 4 September 2013, by section 17 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 104(2C): inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 104(2D): inserted, on 15 November 2021, by section 206(1) of the Water Services Act 2021 (2021 No 36).

Section 104(3): amended, on 1 October 2009, by section 83(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(3)(a): replaced, on 1 October 2009, by section 83(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(3)(b): repealed, on 1 October 2009, by section 83(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(3)(c): replaced, on 17 January 2005, by section 24 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 104(3)(c)(i): replaced, on 28 September 2008, by section 6 of the Resource Management Amendment Act 2008 (2008 No 95).

Section 104(3)(c)(i): amended, on 1 October 2011, by section 23(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 104(3)(c)(iv): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 104(3)(c)(v): inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 104(3)(d): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(3A): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

Section 104(4): replaced, on 1 October 2009, by section 83(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(6): inserted, on 1 October 2009, by section 83(6) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104(7): inserted, on 1 October 2009, by section 83(6) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 104A Determination of applications for controlled activities

After considering an application for a resource consent for a controlled activity, a consent authority—

(a) must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and

(b) may impose conditions on the consent under section 108 only for those matters—

(i) over which control is reserved in national environmental standards or other regulations; or

(ii) over which it has reserved its control in its plan or proposed plan.

Section 104A: inserted, on 1 August 2003, by section 44 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 104A(a): replaced, on 10 August 2005, by section 60 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 104A(b): replaced, on 1 October 2009, by section 84 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 104B Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108.

Section 104B: inserted, on 1 August 2003, by section 44 of the Resource Management Amendment Act 2003 (2003 No 23).

### 104C Determination of applications for restricted discretionary activities

(1) When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—

(a) a discretion is restricted in national environmental standards or other regulations:

(b) it has restricted the exercise of its discretion in its plan or proposed plan.

(2) The consent authority may grant or refuse the application.

(3) However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which—

(a) a discretion is restricted in national environmental standards or other regulations:

(b) it has restricted the exercise of its discretion in its plan or proposed plan.

Section 104C: replaced, on 1 October 2009, by section 85 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.

Section 104D: inserted, on 1 August 2003, by section 44 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 104D(1): amended, on 18 October 2017, by section 144 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 104D(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 104D(1)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Decisions on applications relating to discharge of greenhouse gases*

*[Repealed]*

Heading: repealed, on 4 September 2013, by section 18 of the Resource Management Amendment Act 2013 (2013 No 63).

### 104E Applications relating to discharge of greenhouse gases

When considering an application for a discharge permit or coastal permit to do something that would otherwise contravene section 15 or section 15B relating to the discharge into air of greenhouse gases, a consent authority must not have regard to the effects of such a discharge on climate change, except to the extent that the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases, either—

(a) in absolute terms; or

(b) relative to the use and development of non-renewable energy.

Section 104E: inserted, on 2 March 2004, by section 7 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

### 104F Implementation of national environmental standards

If a national environmental standard is made to control the effects on climate change of the discharge into air of greenhouse gases, a consent authority, when considering an application for a discharge permit or coastal permit to do something that would otherwise contravene section 15 or section 15B,—

(a) may grant the application, with or without conditions, or decline it, as necessary to implement the standard; but

(b) in making its determination, must be no more or less restrictive than is necessary to implement the standard.

Section 104F: inserted, on 2 March 2004, by section 7 of the Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2).

Section 104F heading: amended, on 10 August 2005, by section 61(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 104F: amended, on 10 August 2005, by section 61(2)(a) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 104F(a): amended, on 10 August 2005, by section 61(2)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 104F(b): amended, on 10 August 2005, by section 61(2)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

### 104G Consideration of activities affecting drinking water supply source water

When considering an application for a resource consent, the consent authority must have regard to—

(a) the actual or potential effect of the proposed activity on the source of a drinking water supply that is registered under section 55 of the Water Services Act 2021; and

(b) any risks that the proposed activity may pose to the source of a drinking water supply that are identified in a source water risk management plan prepared in accordance with the requirements of the Water Services Act 2021.

Section 104G: inserted, on 15 November 2021, by section 206(1) of the Water Services Act 2021 (2021 No 36).

### 105 Matters relevant to certain applications

(1) If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1), have regard to—

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(b) the applicant's reasons for the proposed choice; and

(c) any possible alternative methods of discharge, including discharge into any other receiving environment.

(2) If an application is for a resource consent for a reclamation, the consent authority must, in addition to the matters in section 104(1), consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under section 108(2)(g) on the resource consent.

Section 105: replaced, on 1 August 2003, by section 44 of the Resource Management Amendment Act 2003 (2003 No 23).

### 106 Consent authority may refuse subdivision consent in certain circumstances

(1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—

(a) there is a significant risk from natural hazards; or

(b) *[Repealed]*

(c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

(1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—

(a) the likelihood of natural hazards occurring (whether individually or in combination); and

(b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and

(c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).

(2) Conditions under subsection (1) must be—

(a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and

(b) of a type that could be imposed under section 108.

Section 106: replaced, on 1 August 2003, by section 44 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 106(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 106(1)(a): replaced, on 18 October 2017, by section 145(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 106(1)(b): repealed, on 18 October 2017, by section 145(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 106(1A): inserted, on 18 October 2017, by section 145(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 107 Restriction on grant of certain discharge permits

(1) Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing—

(a) the discharge of a contaminant or water into water; or

(b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or

(ba) the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—

if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

(c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(d) any conspicuous change in the colour or visual clarity:

(e) any emission of objectionable odour:

(f) the rendering of fresh water unsuitable for consumption by farm animals:

(g) any significant adverse effects on aquatic life.

(2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—

(a) that exceptional circumstances justify the granting of the permit; or

(b) that the discharge is of a temporary nature; or

(c) that the discharge is associated with necessary maintenance work—

and that it is consistent with the purpose of this Act to do so.

(3) In addition to any other conditions imposed under this Act, a discharge permit or coastal permit may include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of subsection (1) and of any relevant regional rules.

Section 107(1): amended, on 20 August 1998, by section 14(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 107(1): amended, on 7 July 1993, by section 57(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 107(1)(b): replaced, on 20 August 1998, by section 14(1) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 107(1)(ba): inserted, on 20 August 1998, by section 14(1) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 107(2): replaced, on 17 December 1997, by section 23(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 107(2): amended, on 20 August 1998, by section 14(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 107(3): replaced, on 7 July 1993, by section 57(4) of the Resource Management Amendment Act 1993 (1993 No 65).

### 107A Restrictions on grant of resource consents

*[Repealed]*

Section 107A: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 107B Provision for certain infrastructure works and related operations

*[Repealed]*

Section 107B: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 107C Circumstances when written approval for resource consent required from holder of customary rights order

*[Repealed]*

Section 107C: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 107D Process to apply if grant of resource consent has effect of cancelling customary rights order

*[Repealed]*

Section 107D: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## *Decisions on applications relating to non-aquaculture activities*

## *[Repealed]*

Heading: repealed, on 1 October 2011, by section 24 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 107E Decision on application to undertake non-aquaculture activity in aquaculture management area

*[Repealed]*

Section 107E: repealed, on 1 October 2011, by section 25 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 107F Applications to undertake aquaculture activities

(1) This section applies to an application for a coastal permit authorising aquaculture activities to be undertaken in the coastal marine area, other than an application referred to in subsection (2), including an application under subpart 4 of Part 7A.

(2) This section does not apply to an application that relates to—

(a) an area—

(i) that is or was subject to a lease, licence, marine farming permit, or spat catching permit that was deemed under section 10, 20, or 21 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 to be a coastal permit granted under this Act; and

(ii) where, since the date on which the lease, licence, marine farming permit, or spat catching permit was deemed to be a coastal permit, aquaculture activities have been continuously authorised under that permit or another permit granted under this Act; or

(b) an area that is or was subject to the coastal permit referred to in section 20A of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 and where, since the date the coastal permit was deemed to be granted, aquaculture activities have been continuously authorised under that permit or another permit granted under this Act; or

(c) an area in a gazetted aquaculture area within the meaning of section 35 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

(3) The consent authority must take the following actions:

(a) unless the application is returned under section 88(3A), forward a copy of the application as soon as is reasonably practicable to the chief executive of the Ministry of Fisheries:

(b) if information or a report is obtained in relation to the application under section 41C, 42A, 92, or 149, forward that information or report as soon as is reasonably practicable to the chief executive:

(c) if the application is notified, as soon as is reasonably practicable after the closing date for submissions, send to the chief executive a copy of the submissions received.

(4) For the purposes of subsection (3)(c), in the case of a concurrent application made under subpart 4 of Part 7A that is lodged with the EPA, the copy of submissions required to be sent by the EPA to the chief executive is a copy of only those submissions that relate to the concurrent application and not those that relate to its plan change request.

Section 107F: inserted, on 1 October 2011, by section 26 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 107F(3)(a): amended, on 3 March 2015, by section 103 of the Resource Management Amendment Act 2013 (2013 No 63).

### 108 Conditions of resource consents

(1) Except as expressly provided in this section and subject to section 108AA and any regulations, a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2).

(2) A resource consent may include any 1 or more of the following conditions:

(a) subject to subsection (10), a condition requiring that a financial contribution be made:

(b) a condition requiring provision of a bond (and describing the terms of that bond) in accordance with section 108A:

(c) a condition requiring that services or works, including (but without limitation) the protection, planting, or replanting of any tree or other vegetation or the protection, restoration, or enhancement of any natural or physical resource, be provided:

(d) in respect of any resource consent (other than a subdivision consent), a condition requiring that a covenant be entered into, in favour of the consent authority, in respect of the performance of any condition of the resource consent (being a condition which relates to the use of land to which the consent relates):

(e) subject to subsection (8), in respect of a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or section 15B, a condition requiring the holder to adopt the best practicable option to prevent or

minimise any actual or likely adverse effect on the environment of the discharge and other discharges (if any) made by the person from the same site or source:

(f) in respect of a subdivision consent, any condition described in section 220 (notwithstanding any limitation on the imposition of conditions provided for by section 87A(2)(b) or (3)(a)):

(g) in respect of any resource consent for reclamation granted by the relevant consent authority, a condition requiring an esplanade reserve or esplanade strip of any specified width to be set aside or created under Part 10:

(h) in respect of any coastal permit to occupy any part of the common marine and coastal area, a condition—

(i) detailing the extent of the exclusion of other persons:

(ii) specifying any coastal occupation charge.

(3) A consent authority may include as a condition of a resource consent a requirement that the holder of a resource consent supply to the consent authority information relating to the exercise of the resource consent.

(4) Without limiting subsection (3), a condition made under that subsection may require the holder of the resource consent to do 1 or more of the following:

(a) to make and record measurements:

(b) to take and supply samples:

(c) to carry out analyses, surveys, investigations, inspections, or other specified tests:

(d) to carry out measurements, samples, analyses, surveys, investigations, inspections, or other specified tests in a specified manner:

(e) to provide information to the consent authority at a specified time or times:

(f) to provide information to the consent authority in a specified manner:

(g) to comply with the condition at the holder of the resource consent's expense.

(5) Any conditions of a kind referred to in subsection (3) that were made before the commencement of this subsection, and any action taken or decision made as a result of such a condition, are hereby declared to be, and to have always been, as valid as they would have been if subsections (3) and (4) had been included in this Act when the conditions were made, or the action was taken, or the decision was made.

(6) *[Repealed]*

(7) Any condition under subsection (2)(d) may, among other things, provide that the covenant may be varied or cancelled or renewed at any time by agreement between the consent holder and the consent authority.

(8) Before deciding to grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or 15B subject to a condition described in subsection (2)(e), the consent authority shall be satisfied that, in the particular circumstances and having regard to—

(a) the nature of the discharge and the receiving environment; and

(b) other alternatives, including any condition requiring the observance of minimum standards of quality of the receiving environment—

the inclusion of that condition is the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.

(9) In this section, **financial contribution** means a contribution of—

(a) money; or

(b) land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Maori land within the meaning of Te Ture Whenua Maori Act 1993 unless that Act provides otherwise; or

(c) a combination of money and land.

(10) A consent authority must not include a condition in a resource consent requiring a financial contribution unless—

(a) the condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and

(b) the level of contribution is determined in the manner described in the plan or proposed plan.

Section 108(1): replaced, on 17 December 1997, by section 24(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(1): amended, on 18 October 2017, by section 146 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 108(2): replaced, on 17 December 1997, by section 24(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(2)(b): replaced, on 1 August 2003, by section 45(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 108(2)(f): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 108(2)(h): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 108(3): replaced, on 7 July 1993, by section 58(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 108(4): replaced, on 7 July 1993, by section 58(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 108(5): replaced, on 7 July 1993, by section 58(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 108(6): repealed, on 1 August 2003, by section 45(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 108(7): amended, on 17 December 1997, by section 24(3) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(8): amended, on 20 August 1998, by section 24(4)(a) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(8): amended, on 17 December 1997, by section 24(4)(b) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(9): replaced, on 17 December 1997, by section 24(5) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(10): inserted, on 17 December 1997, by section 24(5) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 108(10)(a): amended, on 1 August 2003, by section 45(4) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 108(10)(b): amended, on 1 August 2003, by section 45(5) of the Resource Management Amendment Act 2003 (2003 No 23).

### 108AA Requirements for conditions of resource consents

(1) A consent authority must not include a condition in a resource consent for an activity unless—

(a) the applicant for the resource consent agrees to the condition; or

(b) the condition is directly connected to 1 or more of the following:

(i) an adverse effect of the activity on the environment:

(ii) an applicable district or regional rule, or a national environmental standard:

(iii) a wastewater environmental performance standard made under section 138 of the Water Services Act 2021; or

(c) the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.

(2) Subsection (1) does not limit this Act or regulations made under it.

(3) This section does not limit section 77A (power to make rules to apply to classes of activities and specify conditions), 106 (consent authority may refuse subdivision consent in certain circumstances), or 220 (condition of subdivision consents).

(4) For the purpose of this section, a district or regional rule or a national environmental standard is **applicable** if the application of that rule or standard to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.

(5) Nothing in this section affects section 108(2)(a) (which enables a resource consent to include a condition requiring a financial contribution).

Section 108AA: inserted, on 18 October 2017, by section 147 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 108AA(1)(b): replaced, on 15 November 2021, by section 206(1) of the Water Services Act 2021 (2021 No 36).

### 108A Bonds

(1) A bond required under section 108(2)(b) may be given for the performance of any 1 or more conditions the consent authority considers appropriate and may continue after the expiry of the resource consent to secure the ongoing performance of conditions relating to long-term effects, including—

(a) a condition relating to the alteration or removal of structures:

(b) a condition relating to remedial, restoration, or maintenance work:

(c) a condition providing for ongoing monitoring of long-term effects.

(2) A condition describing the terms of the bond to be entered into under section 108(2)(b) may—

(a) require that the bond be given before the resource consent is exercised or at any other time:

(b) require that section 109(1) apply to the bond:

(c) provide that the liability of the holder of the resource consent be not limited to the amount of the bond:

(d) require the bond to be given to secure performance of conditions of the consent including conditions relating to any adverse effects on the environment that become apparent during or after the expiry of the consent:

(e) require the holder of the resource consent to provide such security as the consent authority thinks fit for the performance of any condition of the bond:

(f) require the holder of the resource consent to provide a guarantor (acceptable to the consent authority) to bind itself to pay for the carrying out of a condition in the event of a default by the holder or the occurrence of an adverse environmental effect requiring remedy:

(g) provide that the bond may be varied or cancelled or renewed at any time by agreement between the holder and the consent authority.

(3) If a consent authority considers that an adverse effect may continue or arise at any time after the expiration of a resource consent granted by it, the consent authority may require that a bond continue for a specified period that the consent authority thinks fit.

Section 108A: inserted, on 1 August 2003, by section 46 of the Resource Management Amendment Act 2003 (2003 No 23).

### 109 Special provisions in respect of bonds or covenants

(1) Every bond given under section 108A in respect of a land use consent or subdivision consent, and any other bond to which this subsection is applied as a condition of the consent, and every covenant given under section 108(2)(d),—

(a) shall be deemed to be an instrument creating an interest in the land within the meaning of section 51 of the Land Transfer Act 2017, and may be registered accordingly; and

(b) when registered under the Land Transfer Act 2017, shall be a covenant running with the land and shall, notwithstanding anything to the contrary in section 103 of the Land Transfer Act 2017, bind all subsequent owners of the land.

(2) Where any such bond or covenant has been registered under the Land Transfer Act 2017 and that bond or covenant is varied, cancelled, or expires, the Registrar-General of Land shall make an appropriate entry in the register and on any relevant instrument of title noting that the bond or covenant has been varied or cancelled or has expired, and the bond or covenant shall take effect as so varied or cease to have any effect, as the case may be.

(3) Where any bond has been given in respect of the completion of any work, or for the purposes of ascertaining whether the work has been completed to the satisfaction of the consent authority, the consent authority may from time to time, under section 171 of the Local Government Act 2002, enter on the land where the work is required to be, or is being, or has been, carried out.

(4) Where the holder fails, within the period prescribed by the resource consent (or within such further period as the consent authority may allow), to complete, to the satisfaction of the consent authority, any work in respect of which any bond is given (including completion of any interim monitoring required)—

(a) the consent authority may enter on the land and complete the work and recover the cost thereof from the holder out of any money or securities deposited with the consent authority or money paid by a guarantor, so far as the money or securities will extend; and

(b) on completion of the work to the satisfaction of the consent authority, any money or securities remaining in the hands of the consent authority after payment of the cost of the works shall be returned to the holder or the guarantor, as the case may be.

(5) Where the cost of any work done by the consent authority under subsection (4) exceeds the amount recovered by the consent authority under that subsection, the amount of that excess shall be a debt due to the consent authority by the holder, and shall thereupon be a charge on the land.

(6) The provisions of Part 12 shall continue to apply notwithstanding the entry into or subsequent variation or cancellation of any such bond or covenant.

Section 109(1): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 109(1): amended, on 17 December 1997, by section 25(b) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 109(1)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 109(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 109(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 109(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 109(3): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 109(4): amended, on 1 August 2003, by section 47 of the Resource Management Amendment Act 2003 (2003 No 23).

### 110 Refund of money and return of land where activity does not proceed

(1) Subject to subsection (2), where—

(a) a resource consent includes a condition under section 108(2)(a); and

(b) that resource consent lapses under section 125 or is cancelled under section 126 or is surrendered under section 138; and

(c) the activity in respect of which the resource consent was granted does not proceed,—

the consent authority shall refund or return to the consent holder, or his or her personal representative, any financial contribution paid or land set aside under section 108(2)(a).

(2) A consent authority may retain any portion of a financial contribution or land referred to in subsection (1) of a value equivalent to the costs incurred by the consent authority in relation to the activity and its discontinuance.

Section 110(1): amended, on 17 December 1997, by section 26 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 110(1): amended, on 7 July 1993, by section 59 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 110(1)(a): amended, on 17 December 1997, by section 26 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 110(1)(a): amended, on 7 July 1993, by section 59 of the Resource Management Amendment Act 1993 (1993 No 65).

### 111 Use of financial contributions

Where a consent authority has received a cash contribution under section 108(2)(a), the authority shall deal with that money in reasonable accordance with the purposes for which the money was received.

Section 111: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 111: amended, on 17 December 1997, by section 27 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 111: amended, on 7 July 1993, by section 60 of the Resource Management Amendment Act 1993 (1993 No 65).

### 112 Obligation to pay rent and royalties deemed condition of consent

(1) In every coastal permit authorising the holder to—

(a) *[Repealed]*

(b) remove any sand, shingle, shell, or other natural material, within the meaning of section 12(4), from any such land—

there shall be implied a condition that the holder shall at all times throughout the period of the permit pay to the relevant regional council, on behalf of the Crown,—

(c) where the permit was permitted to be granted by virtue of an authorisation granted under section 161, the rent and royalties (if any) specified in the authorisation held by the permit holder; and

(d) any sum of money required to be paid by any regulation made under section 360(1)(c).

(2) In every water permit granted to do something that would otherwise contravene section 14(2)(c) (relating to the taking or use of geothermal energy) there shall be implied a condition that the holder shall at all times throughout the period of the permit pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by any regulation made under section 360(1)(c).

(3) Where an activity specified in subsection (1) or subsection (2) is a permitted activity in a plan, there shall be implied as a condition in the plan that the person undertaking the activity shall at all times throughout the period during which the activity is undertaken pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by regulations made under section 360(1)(c).

Section 112 heading: amended, on 17 December 1997, by section 28 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 112(1)(a): repealed, on 17 December 1997, by section 28 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 112(1)(b): amended, on 7 July 1993, by section 61(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 112(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 112(3): inserted, on 7 July 1993, by section 61(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 113 Decisions on applications to be in writing, etc

(1) Every decision on an application for a resource consent that is notified shall be in writing and state—

(a) the reasons for the decision; and

(aa) the relevant statutory provisions that were considered by the consent authority; and

(ab) any relevant provisions of the following that were considered by the consent authority:

(i) a national environmental standard:

(ia) a national policy statement:

(ii) a New Zealand coastal policy statement:

(iii) a regional policy statement:

(iv) a proposed regional policy statement:

(v) a plan:

(vi) a proposed plan; and

(ac) the principal issues that were in contention; and

(ad) a summary of the evidence heard; and

(ae) the main findings on the principal issues that were in contention; and

(b) in a case where a resource consent is granted for a shorter duration than specified in the application, the reasons for deciding on the shorter duration.

(2) Without limiting subsection (1), in a case where a resource consent is granted which, when exercised, is likely to allow any of the effects described in section 107(1)(c) to (g), the consent authority shall include in its decision the reasons for granting the consent.

(3) A decision prepared under subsection (1) may,—

(a) instead of repeating material, cross-refer to all or a part of—

(i) the assessment of environmental effects provided by the applicant concerned:

(ii) any report prepared under section 41C, 42A, or 92; or

(b) adopt all or a part of the assessment or report, and cross-refer to the material accordingly.

(4) Every decision on an application for a resource consent that is not notified must be in writing and state the reasons for the decision.

Section 113(1): amended, on 1 October 2009, by section 86(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 113(1)(aa): inserted, on 10 August 2005, by section 62 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 113(1)(ab): inserted, on 10 August 2005, by section 62 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 113(1)(ab)(i): replaced, on 1 October 2009, by section 86(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 113(1)(ab)(ia): inserted, on 1 October 2009, by section 86(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 113(1)(ac): inserted, on 10 August 2005, by section 62 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 113(1)(ad): inserted, on 10 August 2005, by section 62 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 113(1)(ae): inserted, on 10 August 2005, by section 62 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 113(1)(ae): amended, on 1 October 2009, by section 86(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 113(2): inserted, on 7 July 1993, by section 62 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 113(3): inserted, on 1 October 2009, by section 86(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 113(4): inserted, on 1 October 2009, by section 86(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 114 Notification

(1) A consent authority must ensure that a copy of a decision on an application for a resource consent and a statement of the time within which an appeal against the decision may be lodged is served on the applicant.

(2) A consent authority must ensure that a notice of decision on an application for a resource consent and a statement of the time within which an appeal against the decision may be lodged is served on—

(a) persons who made a submission; and

(b) other persons and authorities that it considers appropriate.

(3) If the consent authority serves a notice summarising a decision, it must—

(a) make a copy of the decision available (whether physically or by electronic means) at all its offices and all public libraries in the district (if the consent authority is a territorial authority) or region (in all other cases); and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

(4) If the decision is to grant an application that section 107F applies to, the consent authority must—

(a) send a copy of the decision, and any notice served under subsection (2), to the chief executive of the Ministry of Fisheries:

(b) advise the applicant that—

(i) the decision is still subject to an aquaculture decision by the chief executive of the Ministry of Fisheries under the Fisheries Act 1996 (which will be made following the determination of all appeals against the decision, if any); and

(ii) the consent may commence only in accordance with section 116A:

(c) if there is no appeal relating to the decision, or following completion of any such appeal,—

(i) send a copy of the final decision to the chief executive of the Ministry of Fisheries; and

(ii) request an aquaculture decision from the chief executive under the Fisheries Act 1996.

(5) If a consent authority forwards, at the same time, 2 or more decisions to the chief executive of the Ministry of Fisheries under subsection (4)(c), the consent authority must indicate to the chief executive the order in which the applications to which the decisions relate were received.

(6) Subsection (4) does not apply if the decision relates to an application for a change or cancellation of the conditions of a consent under section 127, a review of the conditions of a consent initiated under section 132, or an application referred to in section 165ZH, if—

(a) that consent had conditions specified under section 186H(3) of the Fisheries Act 1996; and

(b) the conditions are contained in the consent the decision relates to, and continue to be specified as not being able to be changed or cancelled until the chief executive of the Ministry of Fisheries makes a further aquaculture decision.

(7) For the purpose of subsection (4), in the case of a concurrent application made under subpart 4 of Part 7A that is lodged with the EPA, the functions in—

(a) paragraphs (a) and (b) of that subsection are to be performed by the EPA; and

(b) paragraph (c) of that subsection are to be performed by the consent authority.

(8) If a resource consent is subject to the grant of an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977, the consent authority must advise the applicant that—

(a) the resource consent is subject to a decision by the administering body on the application to exchange the recreation reserve land; and

(b) the decision on the exchange will be made under section 15AA of the Reserves Act 1977 after the time allowed for appeals against the deci-

sion to grant the resource consent has expired and any appeals have been determined; and

(c) the resource consent will not commence until the date determined under section 116B.

Section 114: replaced, on 1 August 2003, by section 48 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 114(4): inserted, on 1 October 2011, by section 27 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 114(5): inserted, on 1 October 2011, by section 27 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 114(6): inserted, on 1 October 2011, by section 27 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 114(7): inserted, on 1 October 2011, by section 27 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 114(8): inserted, on 19 April 2017, by section 188(8) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 115 Time limits for notification of decision

(1) Notice of a decision on an application for a resource consent must be given under section 114 within the time limits in this section.

(2) If a hearing is held, notice of the decision must be given within 15 working days after the end of the hearing.

(3) If the application was not notified and a hearing is not held, notice of the decision must be given within 20 working days after the date the application was first lodged with the authority.

(4) If the application was notified and a hearing is not held, notice of the decision must be given within 20 working days after the closing date for submissions on the application.

(4A) Despite anything else in this section, if the application is a fast-track application, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority.

(5) *[Repealed]*

Section 115: replaced, on 1 October 2009, by section 87 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 115(4A): inserted, on 18 October 2017, by section 148 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 115(5): repealed, on 3 March 2015, by section 104 of the Resource Management Amendment Act 2013 (2013 No 63).

### 116 When a resource consent commences

(1) Except as provided in subsections (1A), (2), (4), and (5), or sections 116A and 116B, every resource consent that has been granted commences—

(a) when the time for lodging appeals against the grant of the consent expires and no appeals have been lodged; or

(b) when the Environment Court determines the appeals or all appellants withdraw their appeals—

unless the resource consent states a later date or a determination of the Environment Court states otherwise.

(1A) A resource consent that has been granted—

(a) for a non-notified application; or

(b) for a notified application where the time for lodging submissions has expired and either—

(i) no submissions are received; or

(ii) all submissions received are withdrawn before a decision is made—

commences on the date on which the decision on the application is notified under section 114 or on such later date as is stated in the resource consent, unless an appeal has been lodged, in which case subsection (1) applies, or an objection has been made under section 357A, in which case subsection (1AB) applies.

(1AB) If an objection has been made under section 357A, the resource consent commences when the objection, and any appeal under section 358, has been decided or withdrawn.

(2) A resource consent to which section 89(2) applies shall not commence—

(a) in the case of a subdivision consent, until the date the land to which the consent relates is vested in the consent holder under section 355(3); and

(b) in every other case, until the proposed location of the activity has been reclaimed and a certificate has been issued under section 245(5) in respect of the reclamation.

(3) *[Repealed]*

(4) Where the Environment Court grants a resource consent under section 87G or 149U, the consent commences on the date of the decision or such later date as the court states in its decision.

(5) Where a board of inquiry grants a resource consent under section 149R, the consent commences on the date of the decision or such later date as the board states in its decision.

(6) If a resource consent is granted for an activity in a part of the common marine and coastal area where a customary marine title order or agreement is in effect, section 68(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies.

Section 116(1): amended, on 19 April 2017, by section 188(9) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 116(1): amended, on 1 October 2011, by section 28 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 116(1): amended, on 1 October 2009, by section 88(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 116(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 116(1): amended, on 7 July 1993, by section 64(1)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 116(1): amended, on 7 July 1993, by section 64(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 116(1)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 116(1A): inserted, on 7 July 1993, by section 64(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 116(1A): amended, on 1 October 2009, by section 88(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 116(1A): amended, on 10 August 2005, by section 63 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 116(1A): amended, on 1 August 2003, by section 50(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 116(1AB): inserted, on 1 August 2003, by section 50(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 116(1AB): amended, on 10 August 2005, by section 63 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 116(3): repealed, on 1 October 2009, by section 88(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 116(4): inserted, on 1 October 2009, by section 88(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 116(5): inserted, on 1 October 2009, by section 88(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 116(6): inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 116A When coastal permit for aquaculture activities may commence

(1) A coastal permit to undertake aquaculture activities in the coastal marine area cannot commence other than in accordance with this section.

(2) If the chief executive of the Ministry of Fisheries makes a determination in relation to the permit, and has notified the consent authority of that decision in accordance with section 186H of the Fisheries Act 1996, the consent authority must, as soon as is reasonably practicable,—

(a) amend the permit, if necessary, to note any conditions specified under section 186H(3) of the Fisheries Act 1996 that may not be changed or cancelled until the chief executive of the Ministry of Fisheries makes a further aquaculture decision:

(b) notify the applicant that the permit commences in respect of the area that is the subject of the determination, on the date of notification under this paragraph, or, if the permit specifies a later commencement date, on that date.

(3) If the chief executive makes a reservation in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system and has notified the consent authority of that decision, in accordance with section 186H of the Fisheries Act 1996, the consent authority must, as soon as reasonably practicable,—

(a) amend the permit to remove the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) cancel the permit to the extent that it applies to the removed areas by written notice served on the applicant.

(4) If the chief executive makes a reservation in relation to commercial fishing in relation to stocks or species subject to the quota management system and has notified the consent authority of that decision, in accordance with section 186H of the Fisheries Act 1996, the consent authority must, as soon as is reasonably practicable,—

(a) amend the permit to show the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) notify the applicant that the permit will not commence in the area affected by the reservation, unless—

(i) an aquaculture agreement is registered in accordance with section 186ZH of the Fisheries Act 1996; or

(ii) a compensation declaration has been registered under section 186ZHA of the Fisheries Act 1996.

(5) If subsection (4) applies and the chief executive has notified the consent authority that an aquaculture agreement or compensation declaration has been registered for those stocks under section 186ZH or 186ZHA of the Fisheries Act 1996 (as the case may require), the consent authority must, as soon as reasonably practicable,—

(a) amend the permit so that it no longer shows the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) notify the applicant that the permit (as amended) commences in respect of the area previously shown subject to the reservation on the date of notification under this paragraph, unless the permit states a later date.

(6) If subsection (5) applies, then for the purposes of section 125(1)(b) the entire permit, as amended, is to be treated as having commenced on the commencement date notified under subsection (5)(c), unless the permit states a later date.

(7) If subsection (4) applies and the chief executive has notified the consent authority under section 186ZK of the Fisheries Act 1996 that no aquaculture agreement or compensation declaration has been registered, the consent authority must, as soon is as reasonably practicable,—

(a) amend the permit to remove the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) cancel the permit to the extent that it applies to the removed areas by written notice served on the applicant.

(8) If the chief executive makes a reservation to which subsection (3) applies, for the entire permit area, the consent authority must cancel the permit by written notice served on the applicant.

(9) Subsections (3) and (7) apply even if the permit was granted under section 104A.

(10) In the case of a concurrent application made under subpart 4 of Part 7A that is lodged with and granted by the EPA, the references in this section to the consent authority are to be read as references to the consent authority that otherwise could have granted the application.

Section 116A: inserted, on 1 October 2011, by section 29 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 116B When resource consent commences if subject to grant of application to exchange recreation reserve land

If a resource consent is subject to the grant of an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977,—

(a) the consent authority must notify the applicant when the procedures in sections 15 and 15AA of that Act are complete; and

(b) the resource consent commences on—

(i) the date of the notification under paragraph (a); or

(ii) any later date that is specified in the notification.

Section 116B: inserted, on 19 April 2017, by section 188(10) of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Restricted coastal activities*

### 117 Application to carry out restricted coastal activity

(1) An application for a coastal permit to carry out an activity that a regional coastal plan describes as a restricted coastal activity must be made to the regional council for the region concerned, except if the application is made to the EPA under section 145.

(2) The regional council is the consent authority in relation to the application for the coastal permit.

(3) Any provisions of this Act that apply in relation to an application for a resource consent apply in relation to the application for the coastal permit, except as provided in this section.

(4) The consent authority must, after receiving the application, promptly provide a copy of it to the Minister of Conservation and the relevant territorial authority.

(5) The consent authority must publicly notify the application.

(6) Section 100A does not apply in relation to the application for the coastal permit.

(7) The consent authority must delegate, under section 34A, its functions, powers, and duties required to hear and decide the application to 1 or more persons permitted by section 34A(1), including 1 person nominated by the Minister of Conservation.

(8) The consent authority must ensure that a notice of its decision on the application is served on the Minister of Conservation under section 114.

Section 117: replaced, on 1 October 2009, by section 89 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 118 Recommendation of hearing committee

*[Repealed]*

Section 118: repealed, on 1 October 2009, by section 90 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 119 Decision on application for restricted coastal activity

*[Repealed]*

Section 119: repealed, on 1 October 2009, by section 90 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 119A Coastal permit for restricted coastal activity treated as if granted by regional council

(1) Subsection (3) applies to a coastal permit for a restricted coastal activity granted at any time by the Minister of Conservation for a coastal marine area within the region of a regional council.

(2) If subsection (3) applies to a coastal permit, it applies on and from the later of—

(a) 1 October 2009; or

(b) the date that the coastal permit is granted.

(3) The coastal permit is to be treated as if—

(a) it were granted by the regional council; and

(b) the regional council were the consent authority in relation to the coastal permit on and from the date it was granted.

Section 119A: replaced, on 1 October 2009, by section 91 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Appeals*

### 120 Right to appeal

(1) Any 1 or more of the following persons may appeal to the Environment Court in accordance with section 121 against the whole or any part of a decision of a consent authority on an application for a resource consent, or an application for a change of consent conditions, or on a review of consent conditions:

(a) the applicant or consent holder:

(b) any person who made a submission on the application or review of consent conditions:

(c) in relation to a coastal permit for a restricted coastal activity, the Minister of Conservation.

(1A) However, there is no right of appeal under this section against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to a boundary activity, unless the boundary activity is a non-complying activity.

(1B) A person exercising a right of appeal under subsection (1)(b) may appeal—

(a) any matter that was raised in the person's submission except any part of the submission that is struck out under section 41D; and

(b) any matter that was not raised in the person's submission.

(2) This section is in addition to the rights provided for in sections 357A, 357AB, 357C, and 357D (which provide for objections to the consent authority).

Section 120(1): amended, on 1 October 2009, by section 92(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 120(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 120(1)(c): inserted, on 1 October 2009, by section 92(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 120(1A): replaced, on 30 September 2020, by section 37(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 120(1B): replaced, on 1 July 2020, by section 37(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 120(2): inserted, on 7 July 1993, by section 68(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 120(2): amended, on 18 October 2017, by section 149(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 120(2): amended, on 10 August 2005, by section 65 of the Resource Management Amendment Act 2005 (2005 No 87).

### 121 Procedure for appeal

(1) Notice of an appeal under section 120 shall be in the prescribed form and shall—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations; and

(c) be lodged with the Environment Court and served on the consent authority whose decision is appealed within 15 working days of notice of the decision being received in accordance with this Act.

(2) The appellant shall ensure that a copy of the notice of appeal is served on every person referred to in section 120 (other than the appellant) within 5 working days of the notice being lodged with the Environment Court.

(3) *[Repealed]*

Section 121(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 121(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 121(3): repealed, on 1 October 2009, by section 93 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Nature of resource consent*

### 122 Consents not real or personal property

(1) A resource consent is neither real nor personal property.

(2) Except as expressly provided otherwise in the conditions of a consent,—

(a) on the death of the holder of a consent, the consent vests in the personal representative of the holder as if the consent were personal property, and he or she may deal with the consent to the same extent as the holder would have been able to do; and

(b) on the bankruptcy of an individual who is the holder of a consent, the consent vests in the Official Assignee as if it were personal property, and he or she may deal with the consent to the same extent as the holder would have been able to do; and

(c) a consent shall be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988.

(3) The holder of a resource consent may grant a charge over that consent as if it were personal property, but the consent may only be transferred to the chargee, or by or on behalf of the chargee, to the same extent as it could be so transferred by the holder.

(4) Subject to the provisions of this Act, and in particular to subsection (3), the Personal Property Securities Act 1999 applies in relation to a resource consent as if—

(a) the resource consent were goods within the meaning of that Act; and

(b) the resource consent were situated in the provincial district in which the activity permitted by the consent may be carried out (or, where it may be carried out in more than 1 provincial district, in those provincial districts).

(5) Except to the extent—

(a) that the coastal permit expressly provides otherwise; and

(b) that is reasonably necessary to achieve the purpose of the coastal permit,—

no coastal permit shall be regarded as—

(c) an authority for the holder to occupy a coastal marine area to the exclusion of all or any class of persons; or

(d) conferring on the holder the same rights in relation to the use and occupation of the area against those persons as if he or she were a tenant or licensee of the land.

(6) Except to the extent—

(a) that the consent expressly provides otherwise; and

(b) that is reasonably necessary to achieve the purpose of the consent,—

no coastal permit shall be regarded as an authority for the holder to remove sand, shingle, shell, or other natural material as if it were a licence or profit à prendre.

Section 122(4): replaced, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 122(5)(c): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 122(6): amended, on 7 July 1993, by section 70 of the Resource Management Amendment Act 1993 (1993 No 65).

*Duration of consent*

### 123 Duration of consent

Except as provided in section 123A or 125,—

(a) the period for which a coastal permit for a reclamation, or a land use consent in respect of a reclamation that would otherwise contravene section 13, is granted is unlimited, unless otherwise specified in the consent:

(b) subject to paragraph (c), the period for which any other land use consent, or a subdivision consent, is granted is unlimited, unless otherwise specified in the consent:

(c) the period for which any other coastal permit, or any other land use consent to do something that would otherwise contravene section 13, is granted is such period, not exceeding 35 years, as is specified in the consent and if no such period is specified, is 5 years from the date of commencement of the consent under section 116:

(d) the period for which any other resource consent is granted is the period (not exceeding 35 years from the date of granting) specified in the con-

sent and, if no such period is specified, is 5 years from the date of commencement of the consent under section 116.

Section 123: amended, on 1 October 2011, by section 30 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 123A Duration of consent for aquaculture activities

(1) A coastal permit authorising aquaculture activities to be undertaken in the coastal marine area must specify the period for which it is granted.

(2) The period specified under subsection (1) must be not less than 20 years from the date of commencement of the consent under section 116A unless—

(a) the applicant has requested a shorter period; or

(b) a shorter period is required to ensure that adverse effects on the environment are adequately managed; or

(c) a national environmental standard expressly allows a shorter period.

(3) The period specified under subsection (1) must be not more than 35 years from the date of commencement of the consent under section 116A.

(4) This section applies subject to section 125.

Section 123A: inserted, on 1 October 2011, by section 31 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 123A(2)(b): amended, on 19 April 2017, by section 77(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 123A(2)(c): inserted, on 19 April 2017, by section 77(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 124 Exercise of resource consent while applying for new consent

(1) Subsection (3) applies when—

(a) a resource consent is due to expire; and

(b) the holder of the consent applies for a new consent for the same activity; and

(c) the application is made to the appropriate consent authority; and

(d) the application is made at least 6 months before the expiry of the existing consent.

(2) Subsection (3) also applies when—

(a) a resource consent is due to expire; and

(b) the holder of the consent applies for a new consent for the same activity; and

(c) the application is made to the appropriate consent authority; and

(d) the application is made in the period that—

(i) begins 6 months before the expiry of the existing consent; and

(ii) ends 3 months before the expiry of the existing consent; and

(e) the authority, in its discretion, allows the holder to continue to operate.

(3) The holder may continue to operate under the existing consent until—

(a) a new consent is granted and all appeals are determined; or

(b) a new consent is declined and all appeals are determined.

(4) This section does not apply to an application to which section 165ZH applies.

Section 124: replaced, on 10 August 2005, by section 66 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 124(4): inserted, on 1 October 2011, by section 32 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 124A When sections 124B and 124C apply and when they do not apply

(1) Sections 124B and 124C apply to an application affected by section 124 if, when the application is made, the relevant plan has not allocated any of the natural resources used for the activity.

(2) Sections 124B and 124C also apply to an application affected by section 124 as follows:

(a) they apply if, when the application is made,—

(i) the relevant plan has allocated some or all of the natural resources used for the activity to the same type of activity; and

(ii) the relevant plan does not expressly say that sections 124A to 124C do not apply; and

(b) they apply to the extent to which the amount of the resource sought by a person described in section 124B(1)(a) and (b) is equal to or smaller than the amount of the resource that—

(i) is allocated to the same type of activity; and

(ii) is left after the deduction of every amount allocated to every other existing resource consent.

(3) Sections 124B and 124C do not apply to an application affected by section 124 if, when the application is made, the relevant plan expressly says that sections 124A to 124C do not apply.

Section 124A: inserted, on 9 August 2008, by section 67 of the Resource Management Amendment Act 2005 (2005 No 87).

### 124B Applications by existing holders of resource consents

(1) This section applies when—

(a) a person holds an existing resource consent to undertake an activity under any of sections 12, 13, 14, and 15 using a natural resource; and

(b) the person makes an application affected by section 124; and

(c) the consent authority receives 1 or more other applications for a resource consent that—

(i) are to undertake an activity using some or all of the natural resource to which the existing consent relates; and

(ii) could not be fully exercised until the expiry of the existing consent.

(2) The application described in subsection (1)(b) is entitled to priority over every application described in subsection (1)(c).

(3) The consent authority must determine the application described in subsection (1)(b) before it determines any application described in subsection (1)(c).

(4) The consent authority must determine an application described in subsection (1)(b) by applying all the relevant provisions of this Act and the following criteria:

(a) the efficiency of the person's use of the resource; and

(b) the use of industry good practice by the person; and

(c) if the person has been served with an enforcement order not later cancelled under section 321, or has been convicted of an offence under section 338,—

(i) how many enforcement orders were served or convictions entered; and

(ii) how serious the enforcement orders or convictions were; and

(iii) how recently the enforcement orders were served or the convictions entered.

Section 124B: inserted, on 9 August 2008, by section 67 of the Resource Management Amendment Act 2005 (2005 No 87).

### 124C Applications by persons who are not existing holders of resource consents

(1) This section applies when—

(a) a person makes an application for a resource consent to undertake an activity under any of sections 12, 13, 14, and 15 using a natural resource; and

(b) the person does not hold an existing consent for the same activity using some or all of the same natural resource; and

(c) a consent granted as a result of the application could not be fully exercised until the expiry of the consent described in section 124B(1)(a); and

(d) the person makes the application more than 3 months before the expiry of the consent described in section 124B(1)(a).

(2) The consent authority must—

(a) hold the application without processing it; and

(b) notify the holder of the existing consent—

(i) that the application has been received; and

(ii) that the holder may make an application affected by section 124.

(3) If the holder of the existing consent notifies the consent authority in writing that the holder does not propose to make an application affected by section 124, the consent authority must process and determine the application described in subsection (1)(a).

(4) If the holder of the existing consent does not make an application affected by section 124 more than 3 months before the expiry of the consent, the consent authority must process and determine the application described in subsection (1)(a).

(5) If the holder of the existing consent makes an application affected by section 124 more than 3 months before the expiry of the consent, the consent authority must hold the application described in subsection (1)(a) until the determination of the holder's application and any appeal.

(6) If the result of the determination of the holder's application and any appeal is that the holder's application affected by section 124 is granted, the application described in subsection (1)(a) lapses to the extent to which the use of the resource has been granted to the holder.

Section 124C: inserted, on 9 August 2008, by section 67 of the Resource Management Amendment Act 2005 (2005 No 87).

### 125 Lapsing of consents

(1) A resource consent lapses on the date specified in the consent or, if no date is specified,—

(a) 5 years after the date of commencement of the consent, if the consent does not authorise aquaculture activities to be undertaken in the coastal marine area; or

(b) 3 years after the date of commencement if the consent does authorise aquaculture activities to be undertaken in the coastal marine area.

(1A) However, a consent does not lapse under subsection (1) if, before the consent lapses,—

(a) the consent is given effect to; or

(b) an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension after taking into account—

(i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and

(ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and

(iii) the effect of the extension on the policies and objectives of any plan or proposed plan.

(1B) Sections 357A and 357C to 358 apply to subsection (1A)(b).

(2) For the purposes of this section, a subdivision consent is given effect to when a survey plan in respect of the subdivision has been submitted to the territorial authority under section 223, but shall thereafter lapse if the survey plan is not deposited in accordance with section 224.

(3) This section is subject to section 150G.

Section 125 heading: amended, on 7 July 1993, by section 71 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 125(1): replaced, on 1 October 2011, by section 33 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 125(1A): replaced, on 1 October 2011, by section 33 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 125(1B): inserted, on 1 October 2011, by section 33 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 125(2): inserted, on 7 July 1993, by section 71 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 125(3): inserted, on 19 March 2004, by section 4 of the Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5).

### 126 Cancellation of consent

(1) A consent authority may cancel a resource consent by written notice served on the consent holder if the resource consent has been exercised in the past but has not been exercised during the preceding 5 years.

(2) Subsection (1) does not apply if—

(a) the resource consent expressly provides otherwise; or

(b) within 3 months after service of the notice, an application is made to the consent authority to revoke the notice and the consent authority decides to revoke the notice and state a period after which a new notice may be served under subsection (1), after taking into account—

(i) whether the applicant has obtained approval from persons who may be adversely affected by the revocation of the notice; and

(ii) the effect of the revocation of the notice on the policies and objectives of any plan or proposed plan.

(3) Sections 357A and 357C to 358 apply to this section.

Section 126: replaced, on 1 August 2003, by section 52 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 126(3): amended, on 10 August 2005, by section 69 of the Resource Management Amendment Act 2005 (2005 No 87).

### 127 Change or cancellation of consent condition on application by consent holder

(1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:

(a) the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and

(b) no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.

(2) *[Repealed]*

(3) Sections 88 to 121 apply, with all necessary modifications, as if—

(a) the application were an application for a resource consent for a discretionary activity; and

(b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.

(3A) If the resource consent is a coastal permit authorising aquaculture activities to be undertaken in the coastal marine area, no aquaculture decision is required in respect of the application if the application is for a change or cancellation of a condition of the consent and does not relate to a condition that has been specified under section 186H(3) of the Fisheries Act 1996 as a condition that may not be changed or cancelled until the chief executive of the Ministry of Fisheries makes a further aquaculture decision.

(4) For the purposes of determining who is adversely affected by the change or cancellation, the consent authority must consider, in particular, every person who—

(a) made a submission on the original application; and

(b) may be affected by the change or cancellation.

Section 127(1): replaced, on 10 August 2005, by section 70 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 127(2): repealed, on 10 August 2005, by section 70 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 127(3): replaced, on 1 August 2003, by section 53(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 127(3A): inserted, on 1 October 2011, by section 34 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 127(4): replaced, on 1 August 2003, by section 53(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 127(4): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Review of consent conditions by consent authority*

### 128 Circumstances when consent conditions can be reviewed

(1) A consent authority may, in accordance with section 129, serve notice on a consent holder of its intention to review the conditions of a resource consent—

(a) at any time or times specified for that purpose in the consent for any of the following purposes:

(i) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or

(ii) to require a holder of a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or 15B to adopt the best practicable option to remove or reduce any adverse effect on the environment; or

(iii) for any other purpose specified in the consent; or

(b) in the case of a coastal, water, or discharge permit, or a land use consent granted by a regional council, if—

(i) a regional plan contains a rule that relates to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water; and

(ii) the rule has been made operative; and

(iii) the regional council considers that it is appropriate to review the conditions of the permit or consent in order to enable the levels, flows, rates, or standards set by the rule to be met; or

(ba) in the case of a coastal, water, or discharge permit, or a land use consent granted by a regional council, when relevant national environmental standards or national planning standards have been made; or

(bb) in the case of a land use consent, in relation to a relevant regional rule; or

(c) if the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions; or

(d) if the review is part of a review carried out under subsection (2A).

(2) A consent authority must, in accordance with section 129, serve notice on a consent holder of its intention to review the conditions of a resource consent if required by an order made under section 339(5)(b).

(2A) If more than 1 resource consent is affected by the rule referred to in subsection (1)(b)(i), the consent authority may review the conditions of those resource consents together for the purpose of managing the effects of the activities carried out under those resource consents.

(3) A regional council must notify the chief executive of the Ministry of Fisheries as soon as is reasonably practicable if it intends to review a condition of a

coastal permit authorising an aquaculture activity to be undertaken in the coastal marine area and the condition has been specified under section 186H(1A) of the Fisheries Act 1996 as a condition that may not be changed or cancelled until the chief executive of the Ministry of Fisheries makes a further aquaculture decision.

Section 128(1)(a): amended, on 7 July 1993, by section 73(1)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 128(1)(a)(ii): amended, on 20 August 1998, by section 30 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 128(1)(a)(ii): amended, on 7 July 1993, by section 73(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 128(1)(b): replaced, on 1 July 2020, by section 38(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 128(1)(ba): replaced, on 19 April 2017, by section 78 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 128(1)(bb): inserted, on 19 April 2017, by section 78 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 128(1)(d): inserted, on 1 July 2020, by section 38(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 128(2): replaced, on 1 October 2009, by section 94 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 128(2A): inserted, on 1 July 2020, by section 38(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 128(3): inserted, on 1 October 2011, by section 35 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 129 Notice of review

(1) A notice under section 128—

(a) shall advise the consent holder of the conditions of the consent which are the subject of the review; and

(b) shall state the reasons for the review; and

(c) shall specify the information which the consent authority took into account in making its decision to review the consent, unless the notice is given under section 128(1)(a) or (ba) or (2); and

(d) may propose, and invite the consent holder to propose within 20 working days of service of the notice, new consent conditions; and

(e) must advise a consent holder by whom a charge is payable under section 36(1)(cb)—

(i) of the fact that the charge is payable; and

(ii) of the estimated amount of the charge; and

(f) must, if section 128(2A) applies, advise that the consent authority intends to review the conditions of the resource consent together with its review of the conditions of other resource consents that are also affected by the rule referred to in section 128(1)(b)(i).

(2) If notification of the review is required under section 130, the notification must include a summary of the notice served under section 128, and must be served within—

(a) 30 working days after the service of the notice (if the consent holder is invited to propose new conditions); or

(b) 10 working days after the service of the notice (if the consent holder is not invited to propose new conditions).

Section 129(1)(c): amended, on 1 October 2009, by section 95 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 129(1)(c): amended, on 1 August 2003, by section 55(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 129(1)(d): amended, on 10 August 2005, by section 72(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 129(1)(e): inserted, on 10 August 2005, by section 72(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 129(1)(f): inserted, on 1 July 2020, by section 39 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 129(2): replaced, on 1 August 2003, by section 55(2) of the Resource Management Amendment Act 2003 (2003 No 23).

### 130 Public notification, submissions, and hearing, etc

(1) Sections 96 to 102 shall, with all necessary modifications, apply in respect of a review of any resource consent (other than a coastal permit granted in respect of a restricted coastal activity) as if—

(a) the notice of review under section 129 were an application for a resource consent; and

(b) the consent holder were the applicant for the resource consent.

(2) Sections 96 to 102 and section 117(4), (6), (7), and (8), with all necessary modifications, apply to the review of a coastal permit granted in respect of a restricted coastal activity as if—

(a) the notice of review under section 129 were an application for a resource consent; and

(b) the consent holder were the applicant for a resource consent.

(3) Sections 95 to 95G apply, with all necessary modifications, as if—

(a) the review of consent conditions were an application for a resource consent for a discretionary activity; and

(b) the references to a resource consent and to the activity were references only to the review of the conditions and to the effects of the change of conditions respectively.

(4) *[Repealed]*

(5) If a regional plan or regional coastal plan states that a rule will affect the exercise of existing resource consents under section 68(7), a consent authority—

(a) is not required to comply with sections 95 to 95G; but

(b) must hear submissions only from the consent holder if the consent holder requests (within 20 working days of service of the notice under section 129) to be heard.

(6) Where a consent which would otherwise be heard under subsection (5) is a consent granted for a restricted coastal activity, the provisions of subsection (2) shall apply except that the only persons who may be heard in relation to the matter are the consent holder and the Minister of Conservation.

(7) Notwithstanding subsections (5) and (6), if a consent authority considers special circumstances exist, it may require that a review be notified and a hearing be held even if a plan expressly states that a rule shall affect the exercise of existing consents under section 68(7).

(8) When reviewing the conditions of a resource consent under section 128(1)(ba), the consent authority must serve on the Minister notice of the review, and the Minister may—

(a) make a submission to the consent authority; and

(b) request to be heard.

Section 130(2): replaced, on 1 October 2009, by section 96(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 130(3): replaced, on 1 August 2003, by section 56(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 130(3): amended, on 4 September 2013, by section 19 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 130(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 130(4): repealed, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 130(5): replaced, on 1 August 2003, by section 56(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 130(5)(a): amended, on 4 September 2013, by section 19 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 130(5)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 130(6): inserted, on 7 July 1993, by section 75(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 130(6): amended, on 1 October 2009, by section 96(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 130(7): inserted, on 7 July 1993, by section 75(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 130(8): inserted, on 1 August 2003, by section 56(4) of the Resource Management Amendment Act 2003 (2003 No 23).

## 131 Matters to be considered in review

(1) When reviewing the conditions of a resource consent, the consent authority—

(a) shall have regard to the matters in section 104 and to whether the activity allowed by the consent will continue to be viable after the change; and

(aa) in the case of a review under section 128(2), must have regard to any reasons that the court provided for making the order requiring the review; and

(b) may have regard to the manner in which the consent has been used.

(2) Before changing the conditions of a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or 15B to include a condition requiring the holder to adopt the best practicable option to remove or reduce any adverse effect on the environment, the consent authority shall be satisfied, in the particular circumstances and having regard to—

(a) the nature of the discharge and the receiving environment; and

(b) the financial implications for the applicant of including that condition; and

(c) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment—

that including that condition is the most efficient and effective means of removing or reducing that adverse effect.

Section 131(1): amended, on 1 October 2009, by section 97(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 131(1)(aa): inserted, on 1 October 2009, by section 97(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 131(2): amended, on 20 August 1998, by section 31 of the Resource Management Amendment Act 1997 (1997 No 104).

### 132 Decisions on review of consent conditions

(1) A consent authority may change the conditions of a resource consent (other than any condition as to the duration of the consent) on a review under section 128 if, and only if, 1 or more of the circumstances specified in that section applies.

(1A) Sections 114(4) and 116A apply with all necessary modifications if a regional council decides to do a review and as a result of the review intends to change a condition of a coastal permit and it is required by section 128(3) to give notice of the intended review to the chief executive of the Ministry of Fisheries.

(2) Sections 106 to 116 (which relate to conditions, decisions, and notification) and sections 120 and 121 (which relate to appeals) apply, with all necessary modifications, to a review under section 128 as if—

(a) the review were an application for a resource consent; and

(b) the consent holder were an applicant for a resource consent.

(3) A consent authority may cancel a resource consent if—

(a) it reviews the consent under section 128(1)(c); and

(b) the application for the consent contained inaccuracies that the consent authority considers materially influenced the decision made on the application; and

(c) there are significant adverse effects on the environment resulting from the exercise of the consent.

(4) A consent authority may also cancel a resource consent if—

(a) it reviews the consent under section 128(2); and

(b) there are significant adverse effects on the environment resulting from the exercise of the consent.

Section 132(1): amended, on 7 July 1993, by section 76(1)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 132(1): amended, on 7 July 1993, by section 76(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 132(1A): inserted, on 1 October 2011, by section 36 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 132(2): amended, on 1 October 2009, by section 98(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 132(3): replaced, on 1 October 2009, by section 98(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 132(4): replaced, on 1 October 2009, by section 98(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 133 Powers under Part 12 not affected

Nothing in sections 127 to 132 limits the power of the Environment Court to change or cancel a resource consent by an enforcement order under Part 12.

Section 133: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 133A Minor corrections of resource consents

A consent authority that grants a resource consent may, within 20 working days of the grant, issue an amended consent that corrects minor mistakes or defects in the consent.

Section 133A: inserted, on 10 August 2005, by section 73 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 133A: amended, on 4 September 2013, by section 20 of the Resource Management Amendment Act 2013 (2013 No 63).

*Transfer of consents*

### 134 Land use and subdivision consents attach to land

(1) Except as provided in subsection (2), a land use consent and a subdivision consent shall attach to the land to which each relates and accordingly may be

enjoyed by the owners and occupiers of the land for the time being, unless the consent expressly provides otherwise.

(2) Subsection (1) does not apply to any land use consent to do something that would otherwise contravene section 13.

(3) The holder of a land use consent described in subsection (2) may transfer the whole or any part of the holder's interest in the consent to any other person unless the consent expressly provides otherwise.

(4) The transfer of the holder's interest in a consent described in subsection (2) has no effect until written notice of the transfer is given to the consent authority that granted the consent.

### 135 Transferability of coastal permits

(1) A holder of a coastal permit—

(a) may transfer the whole or any part of the holder's interest in the permit to any other person:

(b) may not transfer the whole or any part of the holder's interest in the permit to another site—

unless the consent or a rule in a regional coastal plan expressly provides otherwise.

(2) The transfer of the holder's interest in a coastal permit under subsection (1) has no effect until written notice of the transfer is given to the consent authority that granted the permit.

Section 135(1): replaced, on 7 July 1993, by section 77 of the Resource Management Amendment Act 1993 (1993 No 65).

### 136 Transferability of water permits

(1) A holder of a water permit granted for damming or diverting water may transfer the whole of the holder's interest in the permit to any owner or occupier of the site in respect of which the permit is granted, but may not transfer the permit to any other person or from site to site.

(2) A holder of a water permit granted other than for damming or diverting water may transfer the whole or any part of the holder's interest in the permit—

(a) to any owner or occupier of the site in respect of which the permit is granted; or

(b) to another person on another site, or to another site, if both sites are in the same catchment (either upstream or downstream), aquifer, or geothermal field, and the transfer—

(i) is expressly allowed by a regional plan; or

(ii) has been approved by the consent authority that granted the permit on an application under subsection (4).

(2A) A transfer under subsection (1) or subsection (2) may be for a limited period.

(3) A transfer under any of subsections (1), (2)(a), and (2)(b)(i) shall have no effect until written notice of the transfer is received by the consent authority that granted the permit.

(4) An application under subsection (2)(b)(ii)—

(a) shall be in the prescribed form and be lodged jointly by the holder of the water permit and the person to whom the interest in the water permit will transfer; and

(b) shall be considered in accordance with sections 39 to 42A, 88 to 115, 120, and 121 as if—

(i) the application for a transfer were an application for a resource consent; and

(ii) the consent holder were an applicant for a resource consent,—

except that, and in addition to the matters set out in section 104, the consent authority shall have regard to the effects of the proposed transfer, including the effect of ceasing or changing the exercise of the permit under its current conditions, and the effects of allowing the transfer.

(5) Where the transfer of the whole or part of the holder's interest in a water permit is notified under subsection (3), or approved under subsection (2)(b)(ii), and is not for a limited period, the original permit, or that part of the permit transferred, shall be deemed to be cancelled and the interest or part transferred shall be deemed to be a new permit—

(a) on the same conditions as the original permit (where subsection (3) applies); or

(b) on such conditions as the consent authority determines under subsection (4) (where that subsection applies).

Section 136(2A): inserted, on 10 August 2005, by section 74(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 136(4)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 136(5): amended, on 10 August 2005, by section 74(2) of the Resource Management Amendment Act 2005 (2005 No 87).

### 137 Transferability of discharge permits

(1) The holder of a discharge permit may—

(a) transfer part or all of the holder's interest in the permit; and

(b) make the transfer for part or all of the remaining period of the permit.

(2) The holder may make the transfer if it—

(a) is for the site for which the permit is granted; and

(b) is to—

(i) another owner or occupier of the site for which the permit is granted; or

(ii) a local authority.

(3) The holder may make the transfer if it is for another site and is to any person, if a regional plan—

(a) allows the transfer; or

(b) allows the holder to apply to the consent authority that granted the permit to be allowed to make the transfer.

(4) A regional plan may allow a transfer or a consent authority may allow a transfer if—

(a) the transfer does not worsen the actual or potential effect of any discharges on the environment; and

(b) the transfer does not result in any discharges that contravene a national environmental standard; and

(c) if the discharge is to water, both sites are in the same catchment; and

(d) if the discharge is to air and a national environmental standard applies to a discharge to air, both sites are in the same air-shed as defined in the standard; and

(e) if the discharge is to air and paragraph (d) does not apply, both sites are in the same region.

(5) An application under subsection (3)(b)—

(a) must be in the prescribed form; and

(b) must be lodged jointly by the holder of the permit and the person to whom it is proposed to transfer the interest in the permit; and

(c) must be considered under sections 39 to 42A, 88 to 115, 120, and 121 as if—

(i) the application for a transfer were an application for a resource consent; and

(ii) the holder were an applicant for a resource consent.

(6) The transfer has no effect until the consent authority that granted the permit receives written notice of it.

(7) When a consent authority receives written notice of a transfer that is made for all of the remaining period of the permit,—

(a) the original permit, or the part of it that relates to the part of the interest transferred, is cancelled; and

(b) the interest, or the part of it transferred, is a new permit on the same conditions as the original permit.

Section 137: replaced, on 10 August 2005, by section 75 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 137(5)(c): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 138 Surrender of consent

(1) The holder of a resource consent may surrender the consent, either in whole or part, by giving written notice to the consent authority.

(2) A consent authority may refuse to accept the surrender of part of a resource consent where it considers that surrender of that part would—

(a) affect the integrity of the consent; or

(b) affect the ability of the consent holder to meet other conditions of the consent; or

(c) lead to an adverse effect on the environment.

(3) A person who surrenders a resource consent remains liable under this Act—

(a) for any breach of conditions of the consent which occurred before the surrender of the consent; and

(b) to complete any work to give effect to the consent unless the consent authority directs otherwise in its notice of acceptance of the surrender under subsection (4).

(4) A surrender of a resource consent takes effect on receipt by the holder of a notice of acceptance of the surrender from the consent authority.

### 138A Special provisions relating to coastal permits for dumping and incineration

(1) Without limiting section 104, when considering an application for a coastal permit to do something that would otherwise contravene section 15A(1), the consent authority shall, in having regard to the actual and potential effects of allowing the activity, have regard to—

(a) the nature of any discharge of any contaminant which the dumping or incineration may involve and the sensitivity of the receiving environment to adverse effects and the applicant's reasons for making the proposed choice; and

(b) any possible alternative methods of disposal or combustion including any involving discharge into any other receiving environment,—

and, without limiting the powers of the consent authority under section 92, it may, at any reasonable time before the hearing (or, if there is no hearing, the determination) of the application, by written notice to the applicant, require the applicant to provide, by way of further information, an explanation of those matters.

(2) Without limiting section 108, but subject to subsection (5), a coastal permit to which subsection (1) applies may include a condition requiring the holder to adopt the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of any contaminant which may occur in the exercise of the permit; provided that before a consent author-

ity decides to grant a coastal permit subject to such a condition, it shall be satisfied that, in the particular circumstances, and having regard to—

(a) the nature of any discharge of a contaminant and the receiving environment; and

(b) other alternatives, including any condition requiring the observance of minimum standards of quality of the receiving environment,—

the inclusion of the condition is the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.

(3) In respect of a coastal permit to do something that would otherwise contravene section 15A(1), a consent authority may, at any time specified for that purpose in the permit, in accordance with section 129, serve notice on the holder of the permit of its intention to review the conditions of the permit for the purpose of requiring the holder to adopt the best practicable option to remove or reduce any adverse effect on the environment.

(4) Subject to subsection (5), sections 129 to 133 shall apply to any review of a coastal permit under subsection (3) and the powers conferred on a consent authority by that subsection are in addition to the powers conferred by section 128.

(5) Before deciding to grant a coastal permit subject to a condition described in subsection (2) and before deciding to change the conditions of a coastal permit pursuant to subsections (3) and (4), the consent authority shall be satisfied, in the particular circumstances, and having regard to—

(a) the nature of any discharge of a contaminant and the receiving environment; and

(b) the financial implications for the holder of including that condition; and

(c) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment—

that including a condition in the permit requiring the holder to adopt the best practicable option to remove or reduce any adverse effect on the environment is the most efficient and effective means of removing or reducing that adverse effect.

(6) In every coastal permit to do something that would otherwise contravene section 15A(1), there shall be implied a condition that the holder shall, in the prescribed form and at the cost of the holder in all respects, keep such records and furnish to the Director of Maritime New Zealand such information and returns as may from time to time be required by regulations.

Section 138A: inserted, on 20 August 1998, by section 15 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 138A(6): amended, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

*Certificates of compliance or existing use*

Heading: replaced, on 10 August 2005, by section 76 of the Resource Management Amendment Act 2005 (2005 No 87).

### 139 Consent authorities and Environmental Protection Authority to issue certificates of compliance

(1) This section applies if an activity could be done lawfully in a particular location without a resource consent.

(2) A person may request the consent authority to issue a certificate of compliance.

(3) A certificate states that the activity can be done lawfully in a particular location without a resource consent.

(4) The authority may require the person to provide further information if the authority considers that the information is necessary for the purpose of applying subsection (5).

(5) The authority must issue the certificate if—

(a) the activity can be done lawfully in the particular location without a resource consent; and

(b) the person pays the appropriate administrative charge.

(6) The authority must issue the certificate within 20 working days of the later of the following:

(a) the date on which it received the request:

(b) the date on which it received the further information under subsection (4).

(7) The certificate issued to the person must—

(a) describe the activity and the location; and

(b) state that the activity can be done lawfully in the particular location without a resource consent as at the date on which the authority received the request.

(8) The authority must not issue a certificate if—

(a) the request for a certificate is made after a proposed plan is notified; and

(b) the activity could not be done lawfully in the particular location without a resource consent under the proposed plan.

(8A) The authority must not issue a certificate if a notice for the activity is in force under section 87BA(1)(c) or 87BB(1)(d).

(9) Sections 357A, 357AB, and 357C to 358 apply to a request for a certificate.

(10) A certificate is treated as if it were an appropriate resource consent that—

(a) contains the conditions specified in an applicable national environmental standard; and

(b) contains the conditions specified in an applicable plan.

(11) A certificate treated as a resource consent is subject to sections 10, 10A, and 20A(2).

(12) A certificate treated as a resource consent is subject to this Act as if it were a resource consent, except that the only sections in this Part that apply to it are sections 120(1) or (2), 121, 122, 125, 134, 135, 136, and 137.

(13) If an activity relates to a matter that is or is part of a proposal of national significance for which a direction has been made under section 142(2) or 147(1)(a) or (b), a person may request a certificate from the Environmental Protection Authority and this section applies with the following modifications:

(a) a reference to a consent authority is to be treated as a reference to the EPA; and

(b) subsection (5)(b) does not apply; and

(c) the EPA may recover its actual and reasonable costs of dealing with the request from the person making the request; and

(d) if the EPA requires a person to pay costs recoverable under paragraph (c), the costs are a debt due to the Crown that is recoverable in any court of competent jurisdiction.

(14) In this section, **activity** includes a particular proposal.

Section 139: replaced, on 1 October 2009, by section 99 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 139(8A): inserted, on 18 October 2017, by section 150(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 139(9): amended, on 18 October 2017, by section 150(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 139(12): amended, on 18 October 2017, by section 150(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 139(13)(c): amended, on 19 April 2017, by section 79(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 139(13)(d): inserted, on 19 April 2017, by section 79(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 139A Consent authorities to issue existing use certificates

(1) A person may request the consent authority to issue a certificate that—

(a) describes a use of land in a particular location; and

(b) states that the use of the land was a use of land allowed by section 10 on the date on which the authority issues the certificate; and

(c) specifies the character, intensity, and scale of the use on the date on which the authority issues the certificate.

(2) A person may request the consent authority to issue a certificate that—

(a) describes an activity to which section 10A or section 20A applies; and

(b) states that the activity was an activity allowed by section 10A or section 20A on the date on which the authority issues the certificate; and

(c) specifies the character, intensity, and scale of the activity on the date on which the authority issues the certificate; and

(d) describes the period for which the activity is allowed under section 10A or section 20A.

(3) The consent authority may require the person to provide any further information that the authority considers it needs to determine whether it must issue the certificate.

(4) The consent authority must issue a certificate under subsection (1) if it—

(a) is satisfied that the use of the land is a use of land allowed by section 10 on the date on which the authority issues the certificate; and

(b) receives payment of the appropriate administrative charge.

(5) The consent authority must issue a certificate under subsection (2) if it—

(a) is satisfied that the activity is an activity allowed by section 10A or section 20A on the date on which the authority issues the certificate; and

(b) receives payment of the appropriate administrative charge.

(6) A consent authority that must issue a certificate must do so within 20 working days after the latest of the following dates:

(a) the date on which the authority receives the request; and

(b) the date on which the authority receives all the information required under subsection (3); and

(c) the date on which the authority receives the payment of the appropriate administrative charge.

(7) Subsection (8) applies if a consent authority that issued a certificate becomes aware that the information that a person provided in order to obtain the certificate contained inaccuracies.

(8) The authority must revoke the certificate, if it is satisfied that the inaccuracies were material in satisfying the authority that it must issue the certificate.

(9) An existing use certificate is treated as an appropriate resource consent. The provisions of this Act apply to the certificate, except for sections 87AA to 119, 120(1A) and (1B), and 123 to 150.

(10) Sections 357A, 357AB, and 357C to 358 apply in relation to the issue or revocation of an existing use certificate.

Section 139A: inserted, on 10 August 2005, by section 78 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 139A(9): amended, on 18 October 2017, by section 151(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 139A(10): amended, on 18 October 2017, by section 151(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Decisions on proposals of national significance*

*[Repealed]*

Heading: repealed, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

# Part 6AA
# Proposals of national significance

Part 6AA: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 140 Outline of this Part

(1) This section sets out the general scheme and effect of this Part. This section is by way of explanation only and does not limit or affect the other provisions of this Part or this Act.

(2) This Part provides the Minister with specific powers in relation to applications for resource consents, applications for changes to or cancellation of resource consent conditions, local authority plan changes or variations, requests for plan changes, requests for the preparation of regional plans, matters relating to regional policy statements, and notices of requirement that are or are part of a proposal of national significance.

(3) If exercised by the Minister, these powers set in motion one of 2 procedures by which the application, change, variation, request, or notice (**the matter**) is decided. Instead of the normal procedures set out in the Act, either a board of inquiry or the Environment Court decides the matter. A decision by a board of inquiry or the Environment Court may be challenged only by an appeal to the High Court on a question of law. If that decision is challenged, a further appeal may be taken to the Supreme Court or the Court of Appeal on a question of law, but only with the leave of the Supreme Court.

(4) There are 3 ways in which a matter may come to the Minister for his or her decision on whether to make a direction to refer a matter to a board of inquiry or the Environment Court for decision. If the matter has been lodged with a local authority, the Minister may decide to make a direction on his or her own initiative or in response to a request from the local authority or the applicant. If the matter has been lodged with the Environmental Protection Authority, the Minister may decide to make a direction after receiving a recommendation from the EPA.

(5) If the Minister decides not to make a direction to refer a matter to a board of inquiry or the Environment Court for decision, the matter will be processed by the local authority that, in the normal course of the Act, would be responsible for dealing with it. However, the Minister may still intervene in the process, for example, by making a submission on the matter for the Crown, appointing a project co-ordinator to advise the local authority on any thing relating to the matter, or appointing an additional hearings commissioner.

Section 140: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 140(2): amended, on 1 July 2020, by section 40 of the Resource Management Amendment Act 2020 (2020 No 30).

## 141 Interpretation

In this Part, unless the context requires another meaning,—

**applicant** means—

(a) the person who lodged the application, for a matter that is an application for—

(i) a resource consent; or

(ii) a change to or cancellation of the conditions of a resource consent:

(b) the person making the request, for a matter that is a request for a change to a plan—

(i) including a request that has been accepted by a board of inquiry under section 149M or the local authority under clause 25(2)(b) of Schedule 1; but

(ii) excluding a request that has been adopted by the local authority:

(c) the person making the request, for a matter that is a request for the preparation of a regional plan—

(i) including a request that has been accepted by a board of inquiry under section 149M or the local authority under clause 25(2)(b) of Schedule 1; but

(ii) excluding a request that has been adopted by the local authority:

(d) the requiring authority that lodged the notice of requirement, for a matter that is a notice of requirement for a designation or to alter a designation:

(e) the heritage protection authority that lodged the notice of requirement, for a matter that is a notice of requirement for a heritage order or to alter a heritage order:

(f) the local authority, for a matter that is—

(i) a change to its plan or policy statement (including a request for a change that has been adopted by the local authority); or

(ii) a request for the preparation of a regional plan that has been adopted by a local authority; or

(iii) a variation to its proposed plan or policy statement; or:

(g) the Minister of the Crown or the territorial authority making the request, for a matter that is a request for a change to a regional policy statement,—

(i) including a request that has been accepted by a board of inquiry under section 149M or a local authority under clause 25(2)(b) of Schedule 1; but

(ii) excluding a request that has been adopted by the local authority

**local authority** means—

(a) the consent authority that would process an application lodged under section 88 or 127 or, if an application is lodged with the EPA, the consent authority that would have been responsible for processing the application if it had been lodged under section 88 or 127, for a matter that is an application for a resource consent or for a change to or cancellation of the conditions of a resource consent:

(b) the territorial authority responsible for the district plan or proposed district plan, for a matter that is a request for a change to a district plan, a change to a district plan, or a variation to a proposed district plan:

(c) the regional council responsible for the regional plan or proposed regional plan, for a matter that is a request for the preparation of a regional plan, a request for a change to a regional plan, a change to a regional plan, or a variation to a proposed regional plan:

(ca) the regional council responsible for the regional policy statement or proposed policy statement, for a matter relating to a regional policy statement:

(d) the territorial authority responsible for dealing with a notice of requirement given under Part 8 or, if a notice of requirement is lodged with the EPA, the territorial authority that would have been responsible for dealing with the notice if it had been given under Part 8, for a matter that is a notice of requirement

**matter** means—

(a) an application for a resource consent; or

(b) an application for a change to or cancellation of the conditions of a resource consent; or

(c) a request for the preparation of a regional plan (including a request that has been accepted or adopted in whole or in part by a local authority) or part of such a request; or

(d) a request for a change to a plan (including a request that has been accepted or adopted in whole or in part by a local authority) or part of such a request; or

(e) a change to a plan or part of a change to a plan; or

(f) a variation to a proposed plan or part of a variation to a proposed plan; or

(g) a notice of requirement for a designation; or

(h) a notice of requirement for a heritage order; or

(i) a notice of requirement to alter a designation or a heritage order; or

(j) a request for a change to a regional policy statement (including a request that has been accepted or adopted in whole or in part by a local authority) or part of such a request; or

(k) a change to a regional policy statement or part of a change; or

(l) a variation to a proposed regional policy statement or part of a variation; or

(m) a combination of any 2 or more matters described in paragraphs (c) to (f) and (j) to (l)

**matter relating to a regional policy statement** means a matter specified in paragraphs (j) to (l) of the definition of matter

Section 141: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 141 **applicant** paragraph (f)(i): amended, on 1 July 2020, by section 41(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **applicant** paragraph (f)(iii): amended, on 1 July 2020, by section 41(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **applicant** paragraph (g): inserted, on 1 July 2020, by section 41(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **local authority** paragraph (ca): inserted, on 1 July 2020, by section 41(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **matter** paragraph (c): amended, on 19 April 2017, by section 80(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 141 **matter** paragraph (d): amended, on 19 April 2017, by section 80(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 141 **matter** paragraph (e): amended, on 19 April 2017, by section 80(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 141 **matter** paragraph (f): amended, on 19 April 2017, by section 80(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 141 **matter** paragraph (j): inserted, on 1 July 2020, by section 41(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **matter** paragraph (k): inserted, on 1 July 2020, by section 41(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **matter** paragraph (l): inserted, on 1 July 2020, by section 41(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **matter** paragraph (m): inserted, on 1 July 2020, by section 41(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 141 **matter relating to a regional policy statement**: inserted, on 1 July 2020, by section 41(6) of the Resource Management Amendment Act 2020 (2020 No 30).

## 141A Minister's power to intervene

*[Repealed]*

Section 141A: repealed, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 141B Minister's power to call in matters that are or are part of proposals of national significance

*[Repealed]*

Section 141B: repealed, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 141C Form and effect of Minister's direction

*[Repealed]*

Section 141C: repealed, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## Subpart 1—Minister may make direction in relation to matter

Subpart 1: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Matter lodged with local authority*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 142 Minister may call in matter that is or is part of proposal of national significance

(1) This section applies if a matter has been lodged with a local authority and—

(a) the Minister, at his or her own initiative, decides to apply this section; or

(b) the Minister receives a request from an applicant or a local authority to make a direction for the matter under subsection (2).

(2) If the Minister considers that a matter is or is part of a proposal of national significance, the Minister may call in the matter by making a direction to—

(a) refer the matter to a board of inquiry for decision; or

(b) refer the matter to the Environment Court for decision.

(3) In deciding whether a matter is, or is part of, a proposal of national significance, the Minister may have regard to—

(a) any relevant factor, including whether the matter—

(i) has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or

(ii) involves or is likely to involve significant use of natural and physical resources; or

(iii) affects or is likely to affect a structure, feature, place, or area of national significance; or

(iiia) gives effect to a national policy statement and is one that is specified in any of paragraphs (c) to (f) and (j) to (m) of the definition of matter in section 141; or

(iv) affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment; or

(v) results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or

(vi) involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or

(vii) is or is likely to be significant in terms of section 8; or

(viii) will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions; or

(ix) affects or is likely to affect more than 1 region or district; or

(x) relates to a network utility operation that extends or is proposed to extend to more than 1 district or region; and

(b) any advice provided by the EPA.

(4) In deciding whether to make a direction under subsection (2), the Minister must have regard to—

(a) the views of the applicant and the local authority; and

(b) the capacity of the local authority to process the matter; and

(c) the recommendations of the EPA.

(5) A direction made under subsection (2) must—

(a) be in writing and be signed by the Minister; and

(b) state the Minister's reasons for making the direction.

(6) If a local authority or an applicant requests the Minister to call in a matter (by making a direction under subsection (2)) and the Minister decides not to do so, the EPA must give notice of the Minister's decision to the local authority and the applicant.

(6A) When requesting the Minister to call in a matter (by making a direction under subsection (2)), a local authority or an applicant must at the same time serve the other party (the local authority or the applicant, as the case may be) with notice of the request.

(7) To avoid doubt, the Minister may make a direction under subsection (2) that differs from the direction recommended by the EPA under section 144A.

(8) The Minister must not make a direction under subsection (2)(b) if section 149C(2)(a) or (b) applies (which relates to a request for the preparation of a regional plan or a request for a change to a plan or regional policy statement).

Section 142: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 142(3): replaced, on 1 July 2011, by section 10(1) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 142(3)(a)(iiia): inserted, on 19 April 2017, by section 81 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 142(3)(a)(iiia): amended, on 1 July 2020, by section 42(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 142(4)(b): amended, on 1 July 2011, by section 10(2) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 142(4)(c): inserted, on 1 July 2011, by section 10(2) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 142(6A): inserted, on 4 September 2013, by section 21(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 142(7): inserted, on 1 July 2011, by section 10(3) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 142(8): inserted, on 4 September 2013, by section 21(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 142(8): amended, on 1 July 2020, by section 42(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### 143 Restriction on when local authority may request call in

A local authority (whether acting as an applicant or a local authority) may not make a request to the Minister in respect of either of the following matters unless it has complied with the consultation provisions in clauses 2, 3, and, if relevant, 4 of Schedule 1, and with clause 5(1)(a) of Schedule 1, in relation to the matter:

(a) a change to a plan or regional policy statement proposed by the local authority under clause 2 of Schedule 1; or

(b) a variation to a proposed plan or regional policy statement.

Section 143: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 143: amended, on 3 December 2013, for all purposes, by section 79 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 143(a): amended, on 1 July 2020, by section 43 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 143(b): amended, on 1 July 2020, by section 43 of the Resource Management Amendment Act 2020 (2020 No 30).

### 144 Restriction on when Minister may call in matter

The Minister must not call in a matter (by making a direction under section 142(2))—

(a) later than 5 working days before the date fixed for the commencement of the hearing, if the local authority has notified the matter; or

(b) after the local authority gives notice of its decision or recommendation on the matter, if the local authority has decided not to notify the matter.

Section 144: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 144(a): replaced, on 19 April 2017, by section 82 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 144A EPA to advise and make recommendations to Minister in relation to call-in

(1) The Minister may request the EPA to advise him or her on whether a matter is, or is part of, a proposal of national significance.

(2) Section 142(3)(a) applies to the EPA as if the reference to the Minister were a reference to the EPA.

(3) The EPA must provide advice under subsection (1) no later than 20 working days after receiving the Minister's request.

(4) The EPA's advice must include its recommendation that the Minister—

(a) call the matter in and make a direction to refer it to a board of inquiry for a decision; or

(b) call the matter in and make a direction to refer it to the Environment Court for a decision; or

(c) not call the matter in.

(5) The EPA must serve a copy of its recommendation on the applicant and the local authority.

(6) The 20-working-day time frame specified in subsection (3) applies subject to section 149(5) and (6).

Section 144A: inserted, on 1 July 2011, by section 11 of the Resource Management Amendment Act 2011 (2011 No 19).

## *Matter lodged with EPA*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 145 Matter lodged with EPA

(1) A person may lodge 1 or more of the following matters with the EPA:

(a) an application for a resource consent:

(b) a request for the preparation of a regional plan (other than a regional coastal plan):

(c) a request for a change to a plan.

(1A) A person must not lodge with the EPA a plan change request made under subpart 4 of Part 7A unless the person also lodges with it a concurrent application under that subpart.

(2) The holder of a resource consent may lodge an application for a change to or cancellation of the conditions of the resource consent with the EPA.

(3) A requiring authority may lodge a notice of requirement for a designation or to alter a designation with the EPA.

(4) A heritage protection authority may lodge a notice of requirement for a heritage order or to alter a heritage order with the EPA.

(5) If the matter is an application for a resource consent, section 88 applies, except that—

(a) every reference in that section to a consent authority must be read as a reference to the EPA; and

(b) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).

(6) If the matter is an application for a change to or cancellation of the conditions of a resource consent,—

(a) section 127(1) applies, except that every reference in that section to a consent authority must be read as a reference to the EPA; and

(b) section 88 applies, except that—

(i) the application must be treated as if it were an application for a resource consent for a discretionary activity; and

(ii) every reference in that section to a consent authority, a resource consent, and the effects of the activity must be read as a reference to the EPA, the change or cancellation of the conditions, and the effects of the change or cancellation, respectively; and

(iii) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).

(7) If the matter is a notice of requirement for a designation or to alter a designation, section 168 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.

(8) If the matter is a notice of requirement for a heritage order or to alter a heritage order, section 189 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.

(9) If the matter is a request for a change to a plan or the preparation of a regional plan, clause 22 of Schedule 1 applies, except that every reference in that clause to a local authority must be read as a reference to the EPA.

(9A) If the matter is a concurrent application lodged with a plan change request made under subpart 4 of Part 7A, section 107F(3) applies except that the reference to the consent authority in that subsection must be read as a reference to the EPA.

(10) A person who lodges a matter with the EPA under subsections (1) to (4) must serve the local authority with notice of the matter and of its lodging with the EPA under this section.

(11) A matter may not be lodged with the EPA under this section if—

(a) the same matter has been lodged with a local authority; and

(b) the applicant or the local authority has requested that the Minister call in the matter.

Section 145: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 145(1A): inserted, on 1 October 2011, by section 37(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 145(9A): inserted, on 1 October 2011, by section 37(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 146 EPA to recommend course of action to Minister

(1) No later than 20 working days after receiving a matter lodged under section 145, the EPA must recommend to the Minister that he or she make a direction under section 147(1)(a), (b), or (c).

(2) The EPA may also recommend to the Minister that he or she exercise 1 or more of the following powers:

(a) if the EPA recommends that the Minister make a direction under section 147(1)(a) or (b),—

(i) to make a submission on the matter for the Crown:

(ii) to extend the 9-month period by which any board of inquiry appointed to determine the matter must report under section 149R(1) because special circumstances exist:

(b) if the EPA recommends that the Minister make a direction under section 147(1)(c),—

(i) to make a submission on the matter for the Crown:

(ii) to appoint a project co-ordinator for the matter to advise the local authority:

(iii) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters:

(iv) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

(3) The EPA must serve a copy of its recommendation on the applicant and the local authority.

(4) The 20-working day time frame specified in subsection (1) applies subject to section 149(5) and (6).

(5) This section applies to plan change requests and concurrent applications made under subpart 4 of Part 7A subject to the following:

(a) the 20 working days referred to in subsection (1) begins on the later of the following days:

(i) the day on which the EPA determines that, for the purposes of section 88(3), the concurrent application is complete:

(ii) the day on which the EPA receives all the information and reports required under section 149:

(b) any recommendation made by the EPA under this section must relate to both the plan change request and its concurrent application.

(6) The EPA must not recommend to the Minister that he or she make a direction under section 147(1)(b) if section 149C(2)(a) or (b) applies (which relates to a request for the preparation of a regional plan or a request for a change to a plan).

Section 146: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 146(5): inserted, on 1 October 2011, by section 38 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 146(6): inserted, on 4 September 2013, by section 22 of the Resource Management Amendment Act 2013 (2013 No 63).

### 147 Minister makes direction after EPA recommendation

(1) After the Minister receives a recommendation from the EPA under section 146, he or she may make a direction to—

(a) refer the matter to a board of inquiry for decision; or

(b) refer the matter to the Environment Court for decision; or

(c) refer the matter to the local authority.

(2) The Minister may make a direction under subsection (1)(a) or (b) only if he or she considers that the matter is or is part of a proposal of national significance.

(3) The Minister must apply section 142(3) in deciding whether the matter is or is part of a proposal of national significance.

(4) In deciding on making a direction under subsection (1), the Minister must have regard to—

(a) the views of the applicant and the local authority; and

(b) the capacity of the local authority to process the matter; and

(c) the recommendations of the EPA.

(5) A direction made under subsection (1) must—

(a) be in writing and be signed by the Minister; and

(b) state the Minister's reasons for making the direction.

(6) To avoid doubt, the Minister may make a direction under subsection (1) that differs from the direction recommended by the EPA under section 146(1).

(7) For the purposes of a plan change request made, and a concurrent application lodged, under subpart 4 of Part 7A, a direction given under this section must relate to both.

(8) The Minister must not make a direction under subsection (1)(b) if section 149C(2)(a) or (b) applies (which relates to a request for the preparation of a regional plan or a request for a change to a plan).

Section 147: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 147(7): inserted, on 1 October 2011, by section 39 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 147(8): inserted, on 4 September 2013, by section 23 of the Resource Management Amendment Act 2013 (2013 No 63).

### *General provisions for matter lodged with local authority or EPA*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 148 Proposals relating to coastal marine area

(1) If a proposal of national significance relates wholly to the coastal marine area, this Part applies with the following modifications:

(a) references to the Minister must be read as references to the Minister of Conservation; and

(b) sections 149Q(3)(e) and (f) and 149R(4)(e) and (f) must be read as 1 paragraph saying "the Minister of Conservation".

(2) If a proposal of national significance relates partly to the coastal marine area, this Part applies with the following modifications:

(a) references to the Minister must be read as references to the Minister and the Minister of Conservation; and

(b) sections 149Q(3)(e) and (f) and 149R(4)(e) and (f) must be read as 1 paragraph saying "the Minister and the Minister of Conservation".

Section 148: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149 EPA may request further information or commission report

(1) Subsection (2) applies to a matter if—

(a) the matter has been lodged with the EPA under section 145; or

(b) a request relating to the matter has been made by a local authority or an applicant for a direction under section 142(1)(b); or

(c) the Minister decides, at his or her own initiative, to apply section 142.

(2) The EPA may,—

(a) by written notice, request an applicant to provide further information relating to the matter:

(b) require an EPA employee, or commission any person, to prepare a report on any issue relating to a matter (including in relation to information contained in the matter or provided under paragraph (a)).

(3) An applicant who receives a request under subsection (2)(a) must, within 15 working days after the date of the request, do one of the following things:

(a) provide the information; or

(b) tell the EPA by written notice that the applicant agrees to provide the information; or

(c) tell the EPA by written notice that the applicant refuses to provide the information.

(4) If the EPA receives a notice under subsection (3)(b), the EPA must—

(a) set a reasonable time within which the applicant must provide the information; and

(b) tell the applicant by written notice the date by which the applicant must provide the information.

(5) If the EPA requests further information under subsection (2)(a) before making its recommendation to the Minister on a matter under section 144A or 146, the time frame referred to in section 144A(3) or 146(1) (being the time within which the EPA must make its recommendation) begins on,—

(a) if the information is provided in accordance with this section, the day after the day on which the EPA receives the information; or

(b) if the EPA receives a notice of refusal under subsection (3)(c), the day after the day on which the EPA receives the notice; or

(c) in any other case, the day after the day on which the deadline for providing the information expires.

(6) If the EPA requires a report under subsection (2)(b) before making its recommendation to the Minister on a matter under section 144A or 146, the time frame referred to in section 144A(3) or 146(1) (being the time within which the EPA must make its recommendation) begins on the day after the day on which the EPA receives the report.

(7) The EPA must make its recommendation even if the applicant—

(a) does not provide the information before the deadline; or

(b) refuses to provide the information.

Section 149: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149(1): replaced, on 4 September 2013, by section 24 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149(5): amended, on 1 July 2011, by section 12(1)(a) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 149(5): amended, on 1 July 2011, by section 12(1)(b) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 149(6): amended, on 1 July 2011, by section 12(2)(a) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 149(6): amended, on 1 July 2011, by section 12(2)(b) of the Resource Management Amendment Act 2011 (2011 No 19).

*How matter processed if direction made to refer matter to board of inquiry or court*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149A EPA must serve Minister's direction on local authority and applicant

As soon as practicable after the Minister makes a direction under section 142(2) or 147(1)(a) or (b), the EPA must serve the direction on—

(a) the local authority; and

(b) the applicant.

Section 149A: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149B Local authority's obligations if matter called in

(1) Subsection (2) applies to a local authority if—

(a) the Minister calls in a matter by making a direction under section 142(2); and

(b) the local authority has been served with the direction under section 149A.

(2) The local authority must, without delay, provide the EPA with—

(a) the matter; and

(b) all information received by the local authority that relates to the matter; and

(c) if applicable, the submissions received by the local authority on the matter.

Section 149B: replaced, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149C EPA must give public notice of Minister's direction

(1) The EPA must give public notice of a direction the Minister makes under section 142(2) or 147(1)(a) or (b).

(2) Subsection (1) does not apply if—

(a) the matter is a request for the preparation of a regional plan, a request for a change to a plan, or a request for a change to a regional policy statement, lodged with the local authority under clause 21 of Schedule 1 and, at the time the Minister makes the direction, the local authority—

(i) has not yet made a decision on the request under clause 25 of Schedule 1; or

(ii) has made a decision to accept the request, but has not yet prepared the proposed plan or change under clause 26(a) of Schedule 1; or

(iii) has made a decision to adopt the request, but has not yet notified the proposed plan or change under clause 5 of Schedule 1; or

(b) the matter is a request for the preparation of a regional plan, or a request for a change to a plan, lodged with the EPA under section 145; or

(c) the Minister instructs that the giving of public notice be delayed under section 149D; or

(d) the Minister decides under section 149ZC that the application or notice to which the direction relates is not to be publicly notified; or

(e) the matter is a concurrent application made under subpart 4 of Part 7A.

(3) A notice under subsection (1) must—

(a) state the Minister's reasons for making the direction; and

(b) describe the matter to which the direction applies; and

(c) state where the matter, its accompanying information, and any further information may be viewed; and

(d) state that any person may make submissions on the matter to the EPA; and

(e) state the closing date for the receipt of submissions; and

(ea) specify an electronic address for sending submissions; and

(f) state the address for service of the EPA and the applicant (or each applicant if more than 1).

(4) When the EPA gives public notice under subsection (1), it must also serve a copy of the notice on—

(a) each owner and occupier (other than an applicant) of any land to which the matter relates; and

(b) each owner and occupier of any land adjoining any land to which the matter relates; and

(c) if applicable, every person who has made a submission on the matter to the local authority.

Section 149C: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149C(2)(a): amended, on 1 July 2020, by section 44 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149C(2)(d): amended, on 1 October 2011, by section 40(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149C(2)(e): inserted, on 1 October 2011, by section 40(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149C(3)(ea): inserted, on 19 April 2017, by section 83 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149D Minister may instruct EPA to delay giving public notice pending application for additional consents

(1) The Minister may instruct the EPA to delay giving public notice of a direction under section 149C in relation to a matter.

(2) Subsection (1) applies if the Minister considers, on reasonable grounds, that—

(a) resource consents, or other resource consents, will also be required in respect of the proposal to which the matter relates; and

(b) the nature of the proposal will be better understood if applications for the resource consents, or other resource consents, are lodged before proceeding further with the matter.

(3) The EPA must, without delay, give notice to the local authority and the applicant of the instruction under subsection (1).

(4) The Minister may, at any time, rescind an instruction given under subsection (1) and instruct the EPA to give public notice of the direction concerned under section 149C.

Section 149D: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149E EPA to receive submissions on matter if public notice of direction has been given

(1) Any person (including the Minister, for the Crown) may make a submission to the EPA about a matter for which—

(a) the Minister has made a direction under section 142(2) or 147(1)(a) or (b); and

(b) public notice has been given under section 149C.

(2) Subsection (1) applies—

(a) whether or not the person has already made a submission to the local authority on the matter; but

(b) subject to subsections (5) to (8).

(3) A submission must be—

(a) in the prescribed form; and

(b) served—

(i) on the EPA, within the time allowed under subsection (9); and

(ii) on the applicant, as soon as practicable after service on the EPA.

(3A) If a person who makes an electronic submission on a matter to which the submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in section 352(1)(b) (as applied by subsection (3B)), any further correspondence relating to the matter must be served by sending it to that electronic address.

(3B) If subsection (3A) does not apply, the further correspondence may be served by any of the methods specified in section 352(1)(b).

(4) A submission must state whether it supports the matter, it opposes the matter, or it is neutral.

(5) If the person is a trade competitor of the applicant, the person may make a submission only if directly affected by an effect of the activity to which the matter relates, and the effect—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(6) However, subsection (5) does not apply if the matter is a notice of requirement for a heritage order (or to alter a heritage order), a request for the preparation of a regional plan, a request for a change to a plan, a change to a plan, a variation to a proposed plan, a request for a change to a regional policy statement, a change to a regional policy statement, or a variation to a proposed regional policy statement.

(7) If the matter is a change to a plan proposed by a local authority under clause 2 of Schedule 1, a variation to a proposed plan, a change to a regional policy statement, or a variation to a proposed regional policy statement, the person—

(a) must not make a submission if the person could gain an advantage in trade competition through the submission; and

(b) may make a submission only if directly affected by an effect of the change or variation that—

(i) adversely affects the environment; and

(ii) does not relate to trade competition or the effects of trade competition.

(8) If the matter is a request for the preparation of a regional plan, a request for a change to a plan or a regional policy statement, a person who is a trade competitor of the person who made the request may make a submission only if directly affected by an effect of the proposed plan or change that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(9) The closing date for making a submission is 30 working days after the day on which public notice of the direction is given.

(10) Any submissions on the matter received by the local authority before the matter is called in (by a direction being made under section 142(2)) must be treated as having been made to the EPA under this section.

Section 149E: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149E(3A): inserted, on 19 April 2017, by section 84(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149E(3B): inserted, on 19 April 2017, by section 84(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149E(6): replaced, on 1 July 2020, by section 45(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149E(7): amended, on 1 July 2020, by section 45(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149E(8): amended, on 1 July 2020, by section 45(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149E(9): amended, on 19 April 2017, by section 84(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149F EPA to receive further submissions if matter is request, change, or variation

(1) Subsection (2) applies if the matter for which the Minister makes a direction under section 142(2) or 147(1)(a) or (b) is a request for the preparation of a regional plan, a request for a change to a plan, a change to a plan, a variation to a proposed plan, or a matter relating to a regional policy statement.

(2) The EPA must produce a summary of all the submissions on the matter received under section 149E and give public notice of—

(a) the availability of a summary of submissions on the matter; and

(b) where the summary and the submissions can be inspected; and

(c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in subsection (3) may make a further submission on the matter; and

(d) the date of the last day for making further submissions (as calculated under paragraph (c)); and

(da) an electronic address for sending further submissions; and

(e) the address for service of the EPA.

(3) The following persons may make a further submission on the matter:

(a) any person representing a relevant aspect of the public interest; and

(b) any person that has an interest in the matter greater than the interest that the general public has; and

(c) the local authority.

(4) However, a further submission—

(a) may only be in support of or in opposition to a submission made on a matter under section 149E:

(b) may not be made on a concurrent application made under subpart 4 of Part 7A.

(5) A further submission must be in the prescribed form.

(5A) If a person who makes a further electronic submission on a matter to which the further submission relates has specified an electronic address as an address for

service, and has not requested a method of service specified in section 352(1)(b) (as applied by subsection (5B)), any further correspondence relating to the matter must be served by sending it to that electronic address.

(5B) If subsection (5A) does not apply, the further correspondence may be served by any of the methods specified in section 352(1)(b).

(6) A person who makes a further submission under subsection (3) must serve a copy of it on—

(a) the applicant; and

(b) the person who made the submission under section 149E to which the further submission relates.

(7) The further submission must be served no later than 5 working days after the day on which the person provides the EPA with the further submission.

(8) In subsection (1), **request for a change to a plan**, in relation to a plan change request made under subpart 4 of Part 7A, includes the concurrent application that relates to the plan change request.

Section 149F: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149F(1): amended, on 1 July 2020, by section 46(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149F(2)(da): inserted, on 19 April 2017, by section 85(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149F(3)(b): amended, on 1 July 2020, by section 46(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149F(4): replaced, on 1 October 2011, by section 41(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149F(5A): inserted, on 19 April 2017, by section 85(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149F(5B): inserted, on 19 April 2017, by section 85(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149F(8): inserted, on 1 October 2011, by section 41(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 149G EPA must provide board or court with necessary information

(1) This section applies if a matter is referred to a board of inquiry or the Environment Court under this Part.

(2) The EPA must provide the board of inquiry or Environment Court, as the case may be, with each of the following things as soon as is reasonably practicable after receiving it:

(a) the matter:

(b) all the information received by the EPA that relates to the matter:

(c) the submissions received by the EPA on the matter.

(3) The EPA must also commission the local authority to prepare a report on the key issues in relation to the matter that includes—

(a) any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a national planning standard, a regional policy statement or proposed regional policy statement, and a plan or proposed plan; and

(b) a statement on whether all required resource consents in relation to the proposal to which the matter relates have been applied for; and

(c) if applicable, the activity status of all proposed activities in relation to the matter.

(4) The EPA must provide a copy of the report to—

(a) the board of inquiry or the Environment Court, as the case may be; and

(b) the applicant; and

(c) every person who made a submission on the matter.

Section 149G: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149G(3)(a): amended, on 19 April 2017, by section 86 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149H Local authority may not notify further change or variation in certain circumstances

If the Minister makes a direction under section 142(2) or 147(1)(a) or (b) to refer any of the following matters to a board of inquiry or the Environment Court, the local authority must not notify a further change or variation relating to the same issue until after the board or the court, as the case may be, has made a decision on the matter:

(a) a matter that is a change to a plan; or

(b) a matter that is a variation to a proposed plan; or

(c) a matter that is a request for the preparation of a regional plan or a request for a change to a plan (including a request that has been accepted or adopted by the local authority or accepted by a board of inquiry); or

(d) a matter relating to a regional policy statement.

Section 149H: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149H(d): inserted, on 1 July 2020, by section 47 of the Resource Management Amendment Act 2020 (2020 No 30).

### 149I Limitation on withdrawal of change or variation

(1) A local authority may withdraw a change that was notified under clause 5 of Schedule 1, a variation to a proposed plan, or matter relating to a regional policy statement, for which the Minister has made a direction under section 142(2)

no later than 5 working days after the close of the last day on which further submissions may be made under section 149F.

(2) An applicant may withdraw the applicant's request for a proposed regional plan, a request for a change to a plan, or a matter relating to a regional policy statement, for which the Minister has made a direction under section 142(2) or 147(1)(a) or (b) no later than 5 working days after the close of the last day on which further submissions may be made under section 149F.

(3) If the applicant withdraws a request for a change to the plan that is a plan change request made under subpart 4 of Part 7A, the concurrent application that relates to the plan change request is to be treated as having been withdrawn.

Section 149I: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149I(1): amended, on 1 July 2020, by section 48(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149I(2): amended, on 1 July 2020, by section 48(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149I(3): inserted, on 1 October 2011, by section 42 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## Subpart 2—How matter decided if direction made to refer matter to board of inquiry or court

Subpart 2: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### *Matter decided by board of inquiry*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149J Minister to appoint board of inquiry

(1) This section applies if the Minister makes a direction under section 142(2)(a) or 147(1)(a) to refer a matter to a board of inquiry for decision.

(2) As soon as practicable after making the direction, the Minister must appoint a board of inquiry to decide the matter and to complete the performance or exercise of its functions, duties, and powers in relation to the matter (including any appeals in relation to the matter that are filed in any court).

(3) The Minister must appoint—

(a) no fewer than 3, but no more than 5, members; and

(b) 1 member as the chairperson, who may (but need not) be a current, former, or retired Environment Judge or a retired High Court Judge.

(3A) The Minister may, if he or she considers it appropriate,—

(a) invite the EPA to nominate persons to be members of the board:

(b) appoint a member of the EPA board to be a member of the board of inquiry.

(3B) The Minister may, as he or she sees fit, set terms of reference about administrative matters relating to the inquiry.

(4) A member of a board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

Section 149J: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149J(2): amended, on 4 September 2013, by section 25 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149J(3)(b): amended, on 19 April 2017, by section 87(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149J(3A): inserted, on 19 April 2017, by section 87(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149J(3B): inserted, on 19 April 2017, by section 87(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149K How members appointed

(1) The Minister must comply with this section when appointing a board of inquiry under section 149J.

(2) The Minister must seek suggestions for members of the board from the local authority.

(3) However, the Minister may appoint a person as a member of the board whether or not he or she receives a suggestion for the person under subsection (2).

(4) In appointing members, the Minister must consider the need for the board to have available to it, from its members,—

(a) knowledge, skill, and experience relating to—

(i) this Act; and

(ii) the matter or type of matter that the board will be considering; and

(iii) tikanga Māori; and

(iv) the local community; and

(v) the exercise of control over the manner of examining and cross-examining witnesses; and

(b) legal expertise; and

(c) technical expertise in relation to the matter or type of matter that the board will be considering.

Section 149K: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149K(4): replaced, on 19 April 2017, by section 88 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149KA EPA may make administrative decisions

(1) The EPA may—

(a) make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this Part; or

(b) allow the board of inquiry to make those decisions.

(2) The EPA must have regard to the purposes of minimising costs and avoiding unnecessary delay when exercising its powers or performing its functions under subsection (1)(a) or (b).

Section 149KA: inserted, on 19 April 2017, by section 89 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149L Conduct of inquiry

(1) A board of inquiry appointed to determine a matter under section 149J may, in conducting its inquiry, exercise any of the powers, rights, and discretions of a consent authority under sections 92 to 92B and 99 to 100 as if—

(a) the matter were an application for a resource consent; and

(b) every reference in those sections to an application or an application for a resource consent were a reference to the matter.

(2) If a hearing is to be held, the EPA must—

(a) fix a place for the hearing, which must be near to the area to which the matter relates; and

(b) fix the commencement date and time for the hearing; and

(c) give not less than 10 working days' notice of the matters stated in paragraphs (a) and (b) to—

(i) the applicant; and

(ii) every person who made a submission on the matter stating that he or she wished to be heard and who has not subsequently advised the board that he or she no longer wishes to be heard.

(3) The EPA may provide a board of inquiry with an estimate of the amount of funding required to process a nationally significant proposal.

(4) A board of inquiry—

(a) must conduct its inquiry in accordance with any terms of reference set by the Minister under section 149J(3B):

(b) must carry out its duties in a timely and cost-effective manner:

(c) may direct that briefs of evidence be provided in electronic form:

(d) must keep a full record of all hearings and proceedings:

(e) may allow a party to question any other party or witness:

(f) may permit cross-examination:

(g) may, without limiting sections 39, 40 to 41D, 99, and 99A,—

(i) direct that a conference of a group of experts be held:

(ii) direct that a conference be held with—

(A) any of the submitters who wish to be heard at the hearing; or

(B) the applicant; or

(C) any relevant local authority; or

(D) any combination of such persons:

(h) must, in relation to a nationally significant proposal, have regard to the most recent estimate provided to the board of inquiry by the EPA under subsection (3).

(5) A board of inquiry may obtain planning advice from the EPA in relation to—

(a) the relevant district and regional plans, regional and national policy statements, a national planning standard, national environmental standards, and other similar documents:

(b) the issues raised by the matter being considered by the board.

Section 149L: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149L(2): replaced, on 19 April 2017, by section 90 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149L(3): replaced, on 19 April 2017, by section 90 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149L(4): replaced, on 19 April 2017, by section 90 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149L(5): inserted, on 19 April 2017, by section 90 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149M Process if matter is request for regional plan or change and particular circumstances apply

(1) This section applies if the matter before a board of inquiry is a request for the preparation of a regional plan, or a request for a change to a plan or a regional policy statement, and—

(a) the request is lodged with the EPA under section 145; or

(b) the request is lodged with the local authority under clause 21 of Schedule 1 but, at the time the Minister made the direction under section 142(2) in relation to the request, the local authority had not yet made a decision on the request under clause 25 of Schedule 1.

(2) The board may only—

(a) accept the request entirely under clause 25(2)(b) of Schedule 1; or

(b) reject the request entirely under clause 25(4) of Schedule 1.

(3) To make a decision under subsection (2), the board—

(a) has all the powers of a local authority under clauses 23 and 24 of Schedule 1; and

(b) must consult the local authority on its views before making its decision.

(4) If the board accepts the request,—

(a) the board must serve notice of its decision on the applicant and the local authority; and

(b) the local authority must prepare the proposed plan or change in accordance with section 149N; and

(c) the EPA must do anything required of it by sections 149F and 149O; and

(d) the board must—

(i) conduct an inquiry on the proposed plan or change in accordance with sections 149L and 149P(1); and

(ii) apply section 149P(6) or (7), as the case may be; and

(iii) produce a draft report on the proposed plan or change under section 149Q; and

(iv) produce a final report on the proposed plan or change under section 149R.

(4A) For the purposes of subsection (4)(c), in the case of a plan change request made under subpart 4 of Part 7A, the concurrent application—

(a) must be included in the public notice and invitation to make submissions; but

(b) must not be included in the invitation to make further submissions.

(5) If the board rejects the request, the board must serve notice of its decision on the applicant and the local authority.

Section 149M: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149M(1): amended, on 1 July 2020, by section 49 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149M(4)(c): replaced, on 4 September 2013, by section 27 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149M(4A): inserted, on 1 October 2011, by section 43 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 149N Process if section 149M applies or proposed plan or change not yet prepared

(1) Subsections (2) to (4) apply if—

(a) a board of inquiry has accepted a request for the preparation of a regional plan, or a request for a change to a plan, or a request for a change to a regional policy statement under section 149M; or

(b) a local authority has accepted a request for the preparation of a regional plan, or a request for a change to a plan, or a request for a change to a regional policy statement under clause 25(2)(b) of Schedule 1 but, at the time the Minister made the direction under section 142(2) in relation to the request, the local authority had not yet prepared the proposed plan or change under clause 26(a) of Schedule 1.

(2) The local authority must prepare the proposed plan or change in consultation with the applicant as if clause 26(a) of Schedule 1 applied.

(3) The local authority must then serve a copy of the proposed plan or change on the EPA,—

(a) if the circumstances in subsection (1)(a) apply, no later than 4 months after the local authority was served with notice of the board's decision under section 149M(4):

(b) if the circumstances in subsection (1)(b) apply, no later than 4 months after the local authority was served with the Minister's direction under section 149A.

(4) The local authority must also give notice to the EPA of any rules in the proposed plan or change that will have legal effect under subsection (8)(b) on and from the date on which the EPA gives public notice of the proposed plan or change under section 149O.

(5) Subsections (6) to (8) apply if a local authority has adopted a request for the preparation of a regional plan, or a request for a change to a plan, or a request for a change to a regional policy statement, under clause 25(2)(a) of Schedule 1 but, at the time the Minister made the direction under section 142(2) in relation to the request, the local authority had not yet notified the proposed plan or change under clause 5 of Schedule 1.

(6) The local authority must, no later than 4 months after the local authority was served with the Minister's direction under section 149A,—

(a) serve a copy of the proposed plan or change on the EPA; and

(b) give notice to the EPA of any rules in the proposed plan or change that will have legal effect under subsection (8) on and from the date on which the EPA gives public notice of the proposed plan or change under section 149O.

(7) A rule in a proposed plan or change served on the EPA under subsection (6) has legal effect only once a decision is made by the board of inquiry or court.

(8) However, a rule has legal effect on and from the date on which the EPA gives public notice of—

(a) the proposed plan or change under section 149O if the rule—

(i) protects or relates to water, air, or soil (for soil conservation); or

(ii) protects areas of significant indigenous vegetation; or

(iii) protects areas of significant habitats of indigenous fauna; or

(iv) protects historic heritage:

(b) the proposed plan under section 149O if the rule provides for or relates to aquaculture activities.

(9) *[Repealed]*

Section 149N: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149N(1)(a): amended, on 1 July 2020, by section 50(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149N(1)(b): amended, on 1 July 2020, by section 50(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149N(4): amended, on 1 October 2011, by section 45(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149N(5): amended, on 1 July 2020, by section 50(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149N(8): replaced, on 1 October 2011, by section 45(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149N(9): repealed, on 1 October 2011, by section 45(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 149O Public notice and submissions where EPA receives proposed plan or change from local authority under section 149N

(1) This section applies where the EPA receives a proposed plan or change to a plan or regional policy statement proposed by a local authority under section 149N.

(2) On receiving a copy of the proposed plan or change, the EPA must give public notice of the proposed plan or change that—

(a) states the Minister's reasons for making a direction in relation to the matter; and

(b) states where the proposed plan or change, accompanying information, and any further information may be viewed; and

(c) specifies any rule in the proposed plan or change that has legal effect on and from the date that public notice of the proposed plan or change is given under this section; and

(d) states that any person may make submissions to the EPA on the proposed plan or change; and

(e) specifies the closing date for receiving submissions; and

(f) specifies an electronic address for sending submissions; and

(g) specifies the address for service of the EPA and the applicant.

(3) Any person may make a submission on—

(a) a proposed plan or change for which public notice is given under subsection (2), and, for that purpose, section 149E(3), (4), and (8) apply:

(b) a concurrent application for which public notice is given under subsection (2), and, for that purpose, section 149E(5) applies.

(4) However, the closing date for making a submission under subsection (3) is 30 working days after the day on which public notice of the proposed plan or change is given under subsection (2).

(4A) If a person who makes an electronic submission under subsection (3) on a matter to which the submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in section 352(1)(b) (as applied by subsection (4B)), any further correspondence relating to the matter must be served by sending it to that electronic address.

(4B) If subsection (4A) does not apply, the further correspondence may be served by any of the methods specified in section 352(1)(b).

(5) On receiving a copy of the proposed plan or change, the EPA must also provide the board of inquiry with a copy of the proposed plan or change.

(6) When the EPA gives public notice under subsection (2), it must also serve a copy of the notice on—

(a) each owner and occupier (other than an applicant) of any land to which the matter relates; and

(b) each owner and occupier of any land adjoining any land to which the matter relates.

Section 149O: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149O(1): amended, on 1 July 2020, by section 51 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149O(2): replaced, on 19 April 2017, by section 91(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149O(3): replaced, on 1 October 2011, by section 46 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149O(4): amended, on 19 April 2017, by section 91(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149O(4A): inserted, on 19 April 2017, by section 91(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149O(4B): inserted, on 19 April 2017, by section 91(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149P Consideration of matter by board

(1) A board of inquiry considering a matter must—

(a) have regard to the Minister's reasons for making a direction in relation to the matter; and

(b) consider any information provided to it by the EPA under section 149G; and

(c) act in accordance with subsection (2), (3), (4), (5), (6), (7), (8), or (9) as the case may be.

(2) A board of inquiry considering a matter that is an application for a resource consent must apply sections 104 to 104D, 105 to 112, and 138A as if it were a consent authority.

(3) A board of inquiry considering a matter that is an application for a change to or cancellation of the conditions of a resource consent must apply sections 104 to 104D and 105 to 112 as if—

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

(4) A board of inquiry considering a matter that is a notice of requirement for a designation or to alter a designation—

(a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and

(c) may waive the requirement for an outline plan to be submitted under section 176A.

(4A) However, if the requiring authority is the Minister of Education or the Minister of Defence, the board of inquiry may not impose a condition under subsection (4)(b)(iii) requiring a financial contribution (as defined in section 108(9)).

(5) A board of inquiry considering a matter that is a notice of requirement for a heritage order or to alter a heritage order—

(a) must have regard to the matters set out in section 191(1); and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).

(6) A board of inquiry considering a matter that is a variation to a proposed regional plan, a proposed regional plan, or a change to a regional plan—

(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and

(b) may exercise the powers under section 293 as if it were the Environment Court; and

(c) must apply sections 66 to 70 and 77A to 77D as if it were a regional council; and

(d) must apply section 165H as if it were a regional council, if the matter involves a rule in a regional coastal plan or proposed regional coastal plan that relates to the allocation of space in a common marine and coastal area for the purposes of an activity.

(7) A board of inquiry considering a matter that is a change to a district plan or a variation to a proposed district plan—

(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and

(b) may exercise the powers under section 293 as if it were the Environment Court; and

(c) must apply sections 74 to 77D as if it were a territorial authority.

(8) A board of inquiry considering a plan change request and its concurrent application made under subpart 4 of Part 7A must—

(a) firstly, determine matters in relation to the plan change request; and

(b) secondly, determine matters in relation to the concurrent application, based on its determination of matters in relation to the plan change request.

(9) For the purposes of subsection (8)(b), a board of inquiry must process, consider, and determine the concurrent application as if it were a regional council acting under section 165ZW and that section applies accordingly with all necessary modifications.

(9A) A board of inquiry considering a matter relating to a regional policy statement—

(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and

(b) may exercise the powers under section 293 as if it were the Environment Court; and

(c) must apply sections 61 and 62 as if it were a regional council.

(10) A board of inquiry must decline a concurrent application if, as a result of the board's determination on the plan change request, the aquaculture activity that the concurrent application relates to remains a prohibited activity.

Section 149P: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149P(1)(c): amended, on 1 October 2011, by section 47(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149P(2): amended, on 1 July 2020, by section 52(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149P(3): amended, on 1 July 2020, by section 52(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149P(4A): inserted, on 1 July 2020, by section 52(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149P(6)(c): amended, on 1 July 2020, by section 52(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149P(6)(c): amended, on 4 September 2013, by section 28(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149P(6)(d): inserted, on 4 September 2013, by section 28(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149P(8): inserted, on 1 October 2011, by section 47(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149P(9): inserted, on 1 October 2011, by section 47(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149P(9A): inserted, on 1 July 2020, by section 52(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149P(10): inserted, on 1 October 2011, by section 47(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## 149Q Board to produce draft report

*[Repealed]*

Section 149Q: repealed, on 19 April 2017, by section 92 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 149R Board to produce report

(1) As soon as practicable after the board of inquiry has completed its inquiry on a matter, it must—

(a) make its decision; and

(b) produce a written report.

(2) The board must perform the duties in subsection (1) no later than 9 months after—

(a) the day on which the EPA gave public notice under section 149C of the Minister's direction under section 142(2) or 147(1)(a) in relation to the matter, unless paragraph (b) or (c) applies; or

(b) the day on which the EPA gave public notice under section 149O of the proposed plan or change to a plan or regional policy statement, if that section applies to the matter before the board; or

(c) the day on which the EPA gave limited notification under section 149ZC(4), if the EPA gave that notice for the matter before the board.

(2A) For the purposes of subsection (2), the 9-month period excludes—

(a) the period starting on 20 December in any year and ending with 10 January in the following year:

(b) any time while an inquiry is suspended under section 149ZG(3) (as calculated from the date of notification of suspension under section 149ZG(5) to the date of notification of resumption under section 149ZG(5)).

(2B) *[Repealed]*

(3) The report—

(a) must state the board's decision; and

(b) must give reasons for the decision; and

(c) must include a statement of the principal issues that were in contention; and

(d) must include the main findings on the principal issues that were in contention; and

(e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement or to a national planning standard (being changes in addition to any changes that may result from the implementation of the decision); and

(f) may recommend that a national policy statement, a New Zealand coastal policy statement, a national planning standard, or a national environmental standard be issued or revoked.

(4) The EPA must provide a copy of the report to—

(a) the applicant; and

(b) the local authority; and

(c) any other relevant local authorities; and

(d) the persons who made submissions on the matter; and

(e) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and

(f) the Minister; and

(g) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the decision.

(5) The EPA must publish the board's report and give public notice of where and how copies of it can be obtained.

(6) Nothing in section 37(1) applies to the time periods or the requirements in this section that apply to a board.

(7) The EPA's functions under this section are in addition to the EPA's functions under section 114(7)(a).

(8) For the purposes of subsection (4)(d), the EPA is to be taken to have provided a copy of the final report to a submitter if—

(a) the EPA has published the final report on an Internet site maintained by the EPA to which the public has free access; and

(b) the submitter has specified an electronic address as an address for service (and has not requested that the final report be provided in hard copy form); and

(c) the EPA has sent the submitter at that electronic address a link to the final report published on the Internet site referred to in paragraph (a).

Section 149R: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149R heading: amended, on 19 April 2017, by section 93(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(1): replaced, on 19 April 2017, by section 93(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(2): amended, on 19 April 2017, by section 93(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(2)(b): amended, on 1 July 2020, by section 53 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149R(2A): replaced, on 19 April 2017, by section 93(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(2B): repealed, on 19 April 2017, by section 93(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(3)(e): amended, on 19 April 2017, by section 93(5) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(3)(f): amended, on 19 April 2017, by section 93(6) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(4): amended, on 19 April 2017, by section 93(7) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149R(7): inserted, on 1 October 2011, by section 44 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 149R(8): inserted, on 19 April 2017, by section 93(8) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149RA Minor corrections of board decisions, etc

(1) At any time during its term of appointment, a board of inquiry may issue an amendment to a decision, or an amended decision, that corrects minor omissions, errors, or other defects in any decision of the board, and this power includes the powers set out in subsections (2) to (4).

(2) The board may correct a resource consent as if the board were a consent authority acting under section 133A (which applies within 20 working days of the grant of the resource consent).

(3) The board may amend a proposed plan as if the board were a local authority acting under clause 16(2) of Schedule 1 before the earlier of the following:

(a) the day on which the local authority approves the proposed plan under clause 17 of Schedule 1 or the day on which the Minister of Conservation approves the proposed regional coastal plan under clause 19 of Schedule 1, whichever applies:

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

(3A) The board may amend a proposed regional policy statement as if the board were a local authority acting under clause 16(2) of Schedule 1 before the earlier of the following:

(a) the day on which the local authority approves the proposed regional policy statement under clause 17 of Schedule 1:

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

(4) The board may correct a requirement before the earlier of the following:

(a) the day on which the local authority includes the relevant designation or heritage order in its district plan and any proposed district plan under section 175(2):

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

Section 149RA: inserted, on 4 September 2013, by section 30 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149RA(1): amended, on 19 April 2017, by section 94 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149RA(3A): inserted, on 1 July 2020, by section 54 of the Resource Management Amendment Act 2020 (2020 No 30).

### 149S Minister may extend time by which board must report

(1) Despite section 149R(2), the Minister may, at any time (including before the board is appointed), grant an extension or extensions of time in which a board of inquiry must produce its final report.

(2) The Minister may grant an extension only if—

(a) he or she considers that special circumstances apply; and

(b) the time period as extended does not exceed 18 months from—

(i) the day on which the EPA gives public notice under section 149C of the Minister's direction under section 142(2) or 147(1)(a) in relation to the matter, unless subparagraph (ii) or (iii) applies; or

(ii) the day on which the EPA gives public notice under section 149O of the proposed plan or change, if that section applies to the matter before the board; or

(iii) the day on which the EPA gives limited notification under section 149ZC(4), if the EPA gives that notice for the matter before the board.

(3) However, the Minister may grant an extension that results in a time period greater than that described in subsection (2)(b) if the applicant agrees.

(3A) For the purposes of subsection (2)(b), the period of 18 months excludes any time while an inquiry is suspended under section 149ZG(3) (as calculated from the date of notification of suspension under section 149ZG(5) to the date of notification of resumption under section 149ZG(5)).

(4) The EPA must give written notice to the following persons if the Minister grants an extension under subsection (1), or each time the Minister grants an extension under subsection (1), as the case may be:

(a) the applicant; and

(b) the local authority; and

(c) any person who made a submission on the matter.

(5) The EPA must, on request by a board of inquiry, request the Minister to grant an extension under subsection (1) in relation to any matter before the board.

(6) Subsection (5) does not limit subsection (1).

Section 149S: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149S(3A): inserted, on 19 April 2017, by section 95 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149S(5): inserted, on 4 September 2013, by section 31 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 149S(6): inserted, on 4 September 2013, by section 31 of the Resource Management Amendment Act 2013 (2013 No 63).

### *Matter decided by Environment Court*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149T Matter referred to Environment Court

(1) This section applies if the Minister makes a direction under section 142(2)(b) or 147(1)(b) to refer a matter to the Environment Court for decision.

(2) The matter is referred to the Environment Court by the applicant lodging with the court—

(a) a notice of motion specifying the orders sought and the grounds on which the application is made; and

(b) a supporting affidavit on the circumstances giving rise to the application.

(3) The applicant must—

(a) serve a copy of the notice of motion and the affidavit on the local authority and, if applicable, every person who made a submission on the matter; and

(b) serve the documents as soon as is reasonably practicable after lodging them; and

(c) tell the Registrar when the documents have been served.

(4) If the matter is a change to a district plan proposed by a territorial authority under clause 2 of Schedule 1, or a variation to a proposed district plan, the applicant must also serve a copy of the notice of motion and affidavit on any requiring authority that made a requirement under clause 4 of Schedule 1 in respect of the change or variation.

(5) The court may at any time direct the applicant to serve a copy of the notice of motion and affidavit on any other person.

(6) Section 274 applies to a notice of motion lodged under this section.

Section 149T: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149U Consideration of matter by Environment Court

(1) The Environment Court, when considering a matter referred to it under section 149T, must—

(a) have regard to the Minister's reasons for making a direction in relation to the matter; and

(b) consider any information provided to it by the EPA under section 149G; and

(c) act in accordance with subsection (2), (3), (4), (5), (6), or (7), as the case may be.

(2) If considering a matter that is an application for a resource consent, the court must apply sections 104 to 104D and 105 to 112 and 138A as if it were a consent authority.

(3) If considering a matter that is an application for a change to or cancellation of the conditions of a resource consent, the court must apply sections 104 to 104D and 105 to 112 as if—

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

(4) If considering a matter that is a notice of requirement for a designation or to alter a designation, the court—

(a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit; and

(c) may waive the requirement for an outline plan to be submitted under section 176A.

(4A) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under subsection (4)(b)(iii) requiring a financial contribution (as defined in section 108(9)).

(5) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the court—

(a) must have regard to the matters set out in section 191(1); and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).

(6) If considering a matter that is a variation to a proposed regional plan, a proposed regional plan, or a change to a regional plan, the court—

(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and

(b) may exercise the powers under section 293; and

(c) must apply sections 66 to 70, 77A, and 77D as if it were a regional council.

(7) If considering a matter that is a change to a district plan or a variation to a proposed district plan, the court—

(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and

(b) may exercise the powers under section 293; and

(c) must apply sections 74 to 77D as if it were a territorial authority.

(7A) If considering a matter relating to a regional policy statement, the court—

(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and

(b) may exercise the powers under section 293; and

(c) must apply sections 61 and 62 as if it were a regional council.

(8) Part 11 applies to proceedings under this section, except if inconsistent with any provision of this section.

Section 149U: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149U(2): amended, on 1 July 2020, by section 55(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149U(3): amended, on 1 July 2020, by section 55(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149U(4A): inserted, on 1 July 2020, by section 55(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149U(6)(c): amended, on 1 July 2020, by section 55(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149U(7A): inserted, on 1 July 2020, by section 55(5) of the Resource Management Amendment Act 2020 (2020 No 30).

*Appeals*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149V Appeal from decisions only on question of law

(1) A person described in section 149R(4)(a) to (f) may appeal to the High Court against a decision under section 149R(1) or 149U, but only on a question of law.

(2) An applicant for a matter to which section 149M applies may appeal to the High Court against a decision under subsection (2)(b) of that section, but only on a question of law.

(3) If the appeal is from a decision of a board of inquiry, sections 300 to 307 apply to the appeal subject to the following:

(a) every reference to the Environment Court in those sections must be read as a reference to the board of inquiry; and

(b) those sections must be read with any other necessary modifications; and

(c) the High Court Rules 2016 apply if a procedural matter is not dealt with in the sections.

(4) If the appeal is from a decision of the Environment Court, section 299 applies to the appeal.

(5) No appeal may be made to the Court of Appeal from a determination of the High Court under this section.

(6) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 73 to 76 of the Senior Courts Act 2016 apply with any necessary modifications.

(7) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 75 of the Senior Courts Act 2016), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal.

(8) No appeal may be made from any appeal determined by the Court of Appeal in accordance with subsection (7).

(9) Despite any enactment to the contrary,—

(a) an application for leave for the purposes of subsection (6) must be filed no later than 10 working days after the determination of the High Court; and

(b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this section applies as a matter of priority and urgency.

Section 149V: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149V(3)(c): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Section 149V(6): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 149V(7): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

## Subpart 3—Miscellaneous provisions

Subpart 3: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### *Process after decision of board of inquiry or court on certain matters*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149W Local authority to implement decision of board or court about proposed regional plan or change or variation

(1) Subsections (2) and (3) apply to a local authority if a board of inquiry or the Environment Court—

(a) considers a matter that is a proposed regional plan, a change to a plan, a variation to a proposed plan, a change to a regional policy statement, or a variation to a proposed regional policy statement; and

(b) decides that changes must be made to that matter.

(2) As soon as practicable after receiving notice of the decision of the board or the court under section 149R(4) or 149U, as the case may be,—

(a) the local authority must amend the proposed regional plan or a change or variation to a plan or regional policy statement under clause 16(1) of Schedule 1, and that clause applies accordingly as if the decision were a direction of the Environment Court under section 293; and

(b) if the decision is in respect of a proposed regional plan, or a change or variation to a district or regional plan (other than a regional coastal plan), or a regional policy statement, the local authority must—

(i) approve the proposed plan, change, or variation under clause 17 of Schedule 1; and

(ii) make the plan, change, or variation operative by giving public notice in accordance with clause 20 of Schedule 1; and

(c) if the decision is in respect of a change or variation to a regional coastal plan, the local authority must—

(i) adopt the change or variation under clause 18(1) of Schedule 1; and

(ii) send the plan to the Minister of Conservation for his or her approval in accordance with clause 19 of Schedule 1; and

(iii) following approval of the change or variation by the Minister of Conservation, make the change operative by giving public notice in accordance with clause 20 of Schedule 1.

(3) For the purposes of subsection (2)(c)(ii), clause 19 of Schedule 1 must be read as if the reference to any direction of the Environment Court were a reference to any decision of the Environment Court or a board of inquiry.

(4) A local authority must comply with section 175 if a board of inquiry or the Environment Court confirms a requirement under this Part.

Section 149W: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149W(1): replaced, on 1 July 2020, by section 56(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149W(2)(a): amended, on 1 July 2020, by section 56(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 149W(2)(b): amended, on 1 July 2020, by section 56(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 149X Residual powers of local authority

(1) Subsection (2) applies to a resource consent that has been granted by a board of inquiry or the Environment Court under section 149R or 149U, as the case may be.

(2) The consent authority concerned has all the functions, duties, and powers in relation to the resource consent as if it had granted the consent itself.

(3) Subsection (4) applies to a requirement confirmed (with or without modifications) by a board of inquiry or the Environment Court under section 149R or 149U.

(4) The territorial authority concerned has all the functions, duties, and powers in relation to the requirement as if it had dealt with the matter itself.

Section 149X: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Minister makes direction to refer matter to local authority*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149Y EPA must refer matter to local authority if direction made by Minister

(1) This section applies if the Minister makes a direction under section 147(1)(c) to refer a matter lodged with the EPA to the local authority.

(2) The EPA must give notice of the Minister's direction to the local authority and the applicant.

(3) The EPA must also—

(a) provide the local authority with—

(i) the matter; and

(ii) all the material received by the EPA that relates to the matter; and

(b) inform the local authority that it must process the matter in accordance with section 149Z.

Section 149Y: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149Z Local authority must process referred matter

(1) A local authority must process a matter referred to it under section 149Y(3) in accordance with this section, subject to any action the Minister may take under section 149ZA.

(2) If the matter is an application for a resource consent, the local authority must treat the application as if—

(a) it had been made to the local authority under section 88(1); and

(b) it had been lodged on the date that the local authority received notification from the EPA under section 149Y(3); and

(c) section 88(3) and (3A) did not apply to the application.

(3) If the matter is a notice of requirement for a designation or to alter a designation, the local authority must treat the notice as if it had been—

(a) given to the local authority under section 168; and

(b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).

(4) However, if the matter is a notice of requirement for a designation, or to alter a designation, to which section 168A(1) or 181(4) applies, the local authority must instead comply with section 168A or 181 (as the case may be), with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under section 149Y(3).

(5) If the matter is a notice of requirement for a heritage order or to alter a heritage order, the local authority must treat the notice as if it had been—

(a) given to the local authority under section 189; and

(b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).

(6) However, if the matter is a notice of requirement for a heritage order, or to alter a heritage order, to which section 189A(1) or 195A(5) applies, the local authority must instead comply with section 189A or 195A (as the case may be), with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under section 149Y(3).

(7) If the matter is a request for the preparation of a regional plan or a change to a plan, the local authority must treat the request as if it had been—

(a) made to the local authority under clause 21 of Schedule 1; and

(b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).

(8) If the matter is an application for a change to or cancellation of the conditions of a resource consent, the local authority must treat the application as if it had been—

(a) made to the local authority under section 127; and

(b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).

Section 149Z: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149Z(2)(c): amended, on 3 March 2015, by section 105 of the Resource Management Amendment Act 2013 (2013 No 63).

*Minister's powers to intervene in matter*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149ZA Minister's powers to intervene in matter

(1) The Minister may intervene in a matter at any time by exercising 1 or more of the following powers in relation to the matter:

(a) to make a submission on the matter for the Crown:

(b) to appoint a project co-ordinator for the matter to advise the local authority:

(c) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters:

(d) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

(2) In deciding whether to act under subsection (1), the Minister must consider the extent to which the matter is or is part of a proposal of national significance.

(3) If the Minister makes a direction under subsection (1)(c),—

(a) the local authorities must hold the joint hearing; and

(b) section 102 applies, with the necessary modifications, to the hearing.

(4) If the Minister appoints a hearings commissioner under subsection (1)(d), the commissioner has the same powers, functions, and duties as the commissioner or commissioners appointed by the local authority.

(5) To avoid doubt, if the matter has come before the Minister by way of an application lodged with the EPA, the Minister may exercise the powers under subsection (1) in relation to the matter whether or not the EPA made any recommendations about the matter to the Minister under section 146(2).

Section 149ZA: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Process if related matter already subject to direction to refer to board of inquiry or court*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149ZB How EPA must deal with certain applications and notices of requirement

(1) This section applies to a matter that is an application or notice of requirement described in subsection (2) if—

(a) the activity that the application or notice relates to is part of a proposal of national significance in relation to which 1 or more matters have already been subject to a direction under section 142(2) or 147(1)(a) or (b); and

(b) the application or notice was lodged with the EPA either—

(i) before the board of inquiry or Environment Court, as the case may be, has determined the matter or matters already subject to a direction under section 142(2) or 147(1)(a) or (b); or

(ii) after the matter or matters have been determined by the board or the court and the matter or matters have been granted or confirmed.

(2) The applications and notices are—

(a) an application for a resource consent:

(b) an application for a change to or cancellation of the conditions of a resource consent:

(c) a notice of requirement to alter a designation:

(d) a notice of requirement to alter a heritage order.

(3) In addition to making a recommendation to the Minister under section 146 on whether to make a direction under section 147(1)(a), (b), or (c) in relation to the application or notice, the EPA must also recommend whether the application or notice should be notified under sections 149ZCB to 149ZCF.

Section 149ZB: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149ZB(3): amended, on 18 October 2017, by section 152 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZC Minister to decide whether application or notice of requirement to be notified

(1) If the Minister decides to make a direction under section 147(1)(a) or (b) for an application or notice of requirement to which section 149ZB applies, the Minister must also decide whether to notify the application or notice.

(2) The Minister must apply sections 149ZCB to 149ZCF in making his or her decision under subsection (1).

(3) If the Minister decides that the application or notice is to be publicly notified, sections 149C to 149E apply.

(4) If the Minister decides that the application or notice is not to be publicly notified, but is to be subject to limited notification, the EPA must give limited notification of the application or notice.

(5) Any person who receives a notice under subsection (4) may make a submission to the EPA and, for that purpose, section 149E(3) to (6) apply.

(6) However, the closing date for making a submission under subsection (5) is 20 working days after the day on which the EPA gives the notice under subsection (4).

Section 149ZC: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 149ZC(2): replaced, on 18 October 2017, by section 153(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 149ZC(4): amended, on 18 October 2017, by section 153(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZCA Application of sections 149ZCB to 149ZCF

Sections 149ZCB to 149ZCF apply to the EPA's recommendation under section 149ZB and the Minister's decision under section 149ZC on whether to notify an application or a notice to which section 149ZB relates.

Section 149ZCA: inserted, on 18 October 2017, by section 154 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZCB Public notification of application or notice at Minister's discretion

(1) The Minister may, in his or her discretion, decide whether to require the EPA to publicly notify an application or a notice.

(2) Despite subsection (1), the EPA must publicly notify an application or a notice if—

(a) the Minister decides (under section 149ZCE) that the activity that is the subject of the application or notice will have, or is likely to have, adverse effects on the environment that are more than minor; or

(b) the applicant requests public notification of the application or notice; or

(c) a rule or national environmental standard requires public notification of the application or notice.

(3) Despite subsections (1) and (2)(a), the EPA must not publicly notify the application or notice if—

(a) a rule or national environmental standard precludes public notification of the application or notice; and

(b) subsection (2)(b) does not apply.

(4) Despite subsection (3), the EPA may publicly notify an application or a notice if the Minister decides that special circumstances exist in relation to the application or notice.

(5) To avoid doubt, if an application or notice is to be publicly notified in accordance with this section, sections 149C to 149E apply.

Section 149ZCB: inserted, on 18 October 2017, by section 154 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZCC Limited notification of application or notice

(1) If the Minister decides not to require the EPA to publicly notify an application or a notice, the Minister must, in relation to the activity,—

(a) decide if there is any affected person (under section 149ZCF); and

(b) identify any affected protected customary rights group or affected customary marine title group.

(2) The EPA must give limited notification of the application or notice to any affected person unless a rule or national environmental standard precludes limited notification of the application or notice.

(3) The EPA must give limited notification of the application or notice to an affected protected customary rights group or affected customary marine title group even if a rule or national environmental standard precludes public or limited notification of the application or notice.

(4) In subsections (1) and (3), the requirements relating to an affected customary marine title group apply only in the case of applications for accommodated activities.

(5) To avoid doubt, if an application or notice is to be limited notified in accordance with this section, section 149ZC(4) applies.

Section 149ZCC: inserted, on 18 October 2017, by section 154 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZCD Public notification of application or notice after request for further information

(1) Despite section 149ZCB(1), the EPA must publicly notify an application or notice if—

(a) the Minister has not already required the EPA to give public or limited notification of the application or notice; and

(b) subsection (2) applies.

(2) This subsection applies if the EPA requests further information on the application or notice under section 149(2)(a), but the applicant—

(a) does not provide the information before the deadline concerned; or

(b) refuses to provide the information.

(3) This section applies despite any rule or national environmental standard that precludes public or limited notification of the application or notice.

Section 149ZCD: inserted, on 18 October 2017, by section 154 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZCE Minister to decide if adverse effects likely to be more than minor

For the purpose of deciding under section 149ZCB(2)(a) whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the Minister—

(a) must disregard any effects on persons who own or occupy—

(i) the land in, on, or over which the activity will occur or apply; or

(ii) any land adjacent to that land; and

(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and

(c) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and

(d) must disregard trade competition and the effects of trade competition; and

(e) must disregard any effect on a person who has given written approval in relation to the relevant application or notice.

Section 149ZCE: inserted, on 18 October 2017, by section 154 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZCF Minister to decide if person is affected person

(1) The Minister must decide that a person is an affected person, in relation to an activity, if the adverse effects of the activity on the person are minor or more than minor (but are not less than minor).

(2) The Minister, in making his or her decision,—

(a) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and

(b) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity on the person if the activity does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and

(c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

(3) Despite anything else in this section, the Minister must decide that a person is not an affected person if—

(a) the person has given, and not withdrawn, approval for the activity in a written notice received by the authority before the authority has decided whether there are any affected persons; or

(b) it is unreasonable in the circumstances to seek the person's written approval.

Section 149ZCF: inserted, on 18 October 2017, by section 154 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## *Costs of processes under this Part*

Heading: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149ZD Costs of processes under this Part recoverable from applicant

(1) A local authority may recover from an applicant the actual and reasonable costs incurred by the local authority in complying with this Part.

(2) The EPA may recover from a person the actual and reasonable costs incurred by the EPA in providing assistance to the person prior to a matter being lodged with the EPA (whether or not the matter is subsequently lodged).

(3) The EPA may recover from an applicant the actual and reasonable costs incurred by the EPA in exercising its functions and powers under this Part (including

the costs in respect of secretarial and support services provided to a board of inquiry by the EPA).

(4) The Minister may recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under this Part.

(5) The local authority, EPA, or Minister must, upon request by an applicant, provide an estimate of the costs likely to be recovered under this section.

(6) When recovering costs under this section, the local authority, EPA, or Minister must have regard to the following criteria:

(a) the sole purpose is to recover the reasonable costs incurred in respect of the matter to which the costs relate:

(b) the applicant should be required to pay for costs only to the extent that the benefit of the actions of the local authority, EPA, or Minister (as the case may be) to which the costs relate is obtained by the applicant as distinct from the community as a whole:

(c) the extent to which any activity by the applicant reduces the cost to the local authority, EPA, or Minister (as the case may be) of carrying out any of its functions, powers, and duties.

(7) A person may object under section 357B to a requirement to pay costs under any of subsections (1) to (4).

Section 149ZD: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149ZE Remuneration, allowances, and expenses of boards of inquiry

The Fees and Travelling Allowances Act 1951 applies to a board of inquiry appointed under section 149J as follows:

(a) the board is a statutory board within the meaning of the Act; and

(b) a member of the board may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:

(i) remuneration by way of fees, salary, or allowances under the Act; and

(ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the board; and

(c) the Act applies to payments under paragraph (b).

Section 149ZE: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 149ZF Liability to pay costs constitutes debt due to EPA or the Crown

(1) This section applies when—

(a) the EPA or the Minister has required a person to pay costs recoverable under section 149ZD(2), (3), or (4); and

(b) the requirement to pay is final, in that the person who is required to pay—

(i) has not objected under section 357B or appealed under section 358 within the time permitted by this Act; or

(ii) has objected or appealed and the objection or the appeal has been decided against that person.

(2) The costs referred to in subsection (1) are a debt due to either the EPA or the Crown that is recoverable by the EPA, or the EPA on behalf of the Crown, in any court of competent jurisdiction.

Section 149ZF: inserted, on 19 April 2017, by section 96 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 149ZG Process may be suspended if costs outstanding

(1) This section applies if—

(a) the EPA or the Minister has required a person to pay costs recoverable under section 149ZD(2), (3), or (4); and

(b) the EPA has given the person written notice that, unless the costs specified in the notice are paid,—

(i) the EPA may cease to carry out its functions in relation to the matter; and

(ii) if it does so, the inquiry will be suspended.

(2) If the person referred to in subsection (1)(b) fails to pay the costs in the required time, the EPA may cease carrying out its functions in respect of the matter.

(3) If the EPA ceases to carry out its functions in respect of the matter, the inquiry is suspended.

(4) If the EPA ceases to carry out its functions in respect of the matter, but subsequently the person required to pay the costs does so,—

(a) the EPA must resume carrying out its functions in respect of the matter; and

(b) the inquiry is resumed.

(5) The EPA must, as soon as practicable after an inquiry is suspended under subsection (3) or is resumed under subsection (4)(b), notify the following that the inquiry is suspended or has resumed (as the case may be):

(a) the applicant; and

(b) the board; and

(c) the Minister; and

(d) the relevant local authority; and

(e) every person who has made a submission on the matter.

(6) Nothing in this section affects or prejudices the right of a person to object under section 357B or appeal under section 358, but an objection or an appeal does not affect the right of the EPA under subsection (2) of this section to cease carrying out its functions.

Section 149ZG: inserted, on 19 April 2017, by section 96 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 150 Residual powers of authorities

*[Repealed]*

Section 150: repealed, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 150AA Reference to Environment Court

*[Repealed]*

Section 150AA: repealed, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## Part 6A
## Aquaculture moratorium

Part 6A: inserted, on 26 March 2002, by section 9 of the Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5).

### 150A Interpretation

In this Part, unless the context otherwise requires,—

**application** means an application for a coastal permit for aquaculture activities

**moratorium** means the period—

(a) beginning on 28 November 2001; and

(b) ending on the close of—

(i) 31 December 2004; or

(ii) in relation to a coastal marine area described in an order made under section 150C, the date specified in the order.

Section 150A: inserted, on 26 March 2002, by section 9 of the Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5).

Section 150A **moratorium** paragraph (b)(i): replaced, on 19 March 2004, by section 5 of the Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5).

### 150B Moratorium

(1) Subsection (2) applies to—

(a) an application that requires public notification if it was made to a consent authority before the moratorium and the consent authority had not, before the moratorium, notified the application:

(b) an application that does not require public notification if—

(i) it was made to a consent authority before the moratorium; and

(ii) the consent authority had not, before the moratorium, decided not to give limited notification of the application.

(2) The consent authority must not process or determine the application until the moratorium has expired in relation to the area that the application relates to.

(3) Subsection (4) applies if an application is made to a consent authority during the moratorium.

(4) The consent authority—

(a) must not process the application; and

(b) must not determine the application; and

(c) must return the application, and any fee accompanying it, to the applicant as soon as practicable.

(5) This section does not apply to an application if—

(a) the application relates to a coastal marine area that, immediately before the moratorium, was subject to—

(i) a coastal permit; or

(ii) a marine farming lease or licence under the Marine Farming Act 1971; and

(b) the application is for a new coastal permit for the same activities in the same area.

Section 150B: inserted, on 26 March 2002, by section 9 of the Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5).

Section 150B(1)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 150B(1)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 150B(1)(b)(ii): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 150C Earlier expiry of moratorium in relation to specified areas

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, specify a date earlier than 31 December 2004 as the date on which the moratorium ends in relation to a coastal marine area described in the order.

(2) The Minister must not make a recommendation unless—

(a) the regional council concerned has requested the Minister to make the recommendation; and

(b) the Minister is satisfied, based on information and explanations provided by the regional council, that—

(i) a regional coastal plan or proposed regional coastal plan provides for aquaculture activities as a controlled activity or discretionary activity in the area that the regional council's request relates to; and

(ii) the area is of a size and location that, taking into account the provisions of the plan or proposed plan, will avoid, remedy, or mitigate the adverse effects (including cumulative effects) of aquaculture activities on the environment and on other uses of the coastal marine area; and

(iii) the ending of the moratorium in relation to the area will not limit or adversely affect the establishment of aquaculture management areas in the future.

(3) The Minister must make a recommendation under subsection (1) within 40 working days after receiving a request if the Minister is not prevented by subsection (2) from making the recommendation.

(4) For the purposes of subsection (3), sections 37 and 37A apply, with all necessary modifications, as if the Minister were acting as a consent authority.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 150C: inserted, on 26 March 2002, by section 9 of the Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5).

Section 150C(1): amended, on 19 March 2004, by section 6(1) of the Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5).

Section 150C(3): amended, on 19 March 2004, by section 6(2) of the Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5).

Section 150C(4): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 150C(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 150D Pending applications to be considered under rules as at end of moratorium

*[Repealed]*

Section 150D: repealed, on 1 January 2005, by section 12 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 150E Transitional provision

*[Repealed]*

Section 150E: repealed, on 1 January 2005, by section 12 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 150F No compensation

No compensation is payable by the Crown to any person for any loss or damage arising from the application of this Part.

Section 150F: inserted, on 26 March 2002, by section 9 of the Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5).

*Certain coastal permits continued*

Heading: inserted, on 19 March 2004, by section 7 of the Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5).

### 150G Certain coastal permits issued in period from 1 June 1995 to 1 August 2003 continued

(1) This section applies to coastal permits issued—

(a) in the period beginning on 1 June 1995 and ending with the close of 1 August 2003; and

(b) for the occupation of an area in the coastal marine area for the purpose of aquaculture activities, and for any activity related to that occupation.

(2) A coastal permit is given effect to when the holder of the permit applies under section 67J or section 67Q of the Fisheries Act 1983 to the chief executive of the Ministry of Fisheries for a marine farming permit or a spat catching permit over the same area.

(3) A coastal permit that has lapsed under section 125 before 1 August 2003 is deemed not to have lapsed if, before the coastal permit lapsed under section 125, the holder of the coastal permit had applied under section 67J or section 67Q of the Fisheries Act 1983 to the chief executive of the Ministry of Fisheries for a marine farming permit or a spat catching permit over the same area.

Section 150G: inserted, on 19 March 2004, by section 7 of the Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5).

## Part 7
## Coastal tendering

### 151AA Part not to apply to applications to occupy coastal marine area

This Part does not apply to applications for coastal permits to authorise the occupation of a coastal marine area.

Section 151AA: inserted, on 1 January 2005, by section 13 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 151 Interpretation

In this Part, unless the context otherwise requires,—

**authorisation** means an authorisation granted by the Minister of Conservation pursuant to section 161

**Minister** means the Minister of Conservation

**Order in Council** means an Order in Council made under section 152

Section 151 **public notice**: repealed, on 18 October 2017, by section 155 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 152 Order in Council may be made requiring holding of authorisation

(1) The Governor-General may, by Order in Council, on the advice of the Minister, direct that a consent authority must not grant a coastal permit, in respect of a specified part of the marine and coastal area (other than in respect of any specified freehold land) that would, if granted, authorise the permit holder—

(a) *[Repealed]*

(b) remove any sand, shingle, shell, or other natural material, within the meaning of section 12(4), from any such land; or

(c) reclaim or drain any of such land that is foreshore or seabed—

unless the applicant for the coastal permit is the holder of an authorisation authorising such taking, removal, reclamation, or drainage.

(2) Every Order in Council made under subsection (1) may, by Order in Council made on the advice of the Minister, be amended or revoked.

(3) The Minister shall not advise the making of an Order in Council under subsection (1) or subsection (2) which relates to any activity described in subsection (1)(c) in the coastal marine area of any region until a proposed regional coastal plan has been both prepared and notified under this Act in respect of that region.

(4) The Minister shall not advise the making of an Order in Council under subsection (1) or (2) unless the Minister considers that there is, or is likely to be, in respect of any area to which it is proposed that the Order in Council relate, competing demands for the use of that area for all or any of the activities referred to in subsection (1).

(5) Every Order in Council made under subsection (1), and every Order in Council made under subsection (2) amending a previous Order in Council, shall expire on the second anniversary of the date on which—

(a) in the case of an Order in Council made under subsection (1), it came into force:

(b) in the case of an Order in Council made under subsection (2), the original Order in Council amended came into force.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 152(1): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 152(1): amended, on 1 January 2005, by section 14(1)(b) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 152(1)(a): repealed, on 1 January 2005, by section 14(1)(a) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 152(1)(b): amended, on 7 July 1993, by section 80 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 152(3): amended, on 1 January 2005, by section 14(2) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 152(4): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 152(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 153 Application of Order in Council

An Order in Council shall not apply to or affect—

(a) any application for a coastal permit made before the date on which the Order in Council came into force:

(b) any application, whether made before or after the date on which the Order in Council came into force, for a coastal permit to do something—

(i) that otherwise would contravene section 14, section 15, section 15A, or section 15B; or

(ii) that otherwise would contravene section 12 (other than something described in section 152(1)(b) or (c) that is the subject of the Order in Council):

(c) any application to which any of sections 389, 390, 390A, 390C, 393, and 395 apply:

(d) any application for a coastal permit to which section 124 applies and any coastal permit granted as a result of any such application:

(e) any of the following in force or being carried out on the date on which the Order in Council came into force:

(i) any coastal permit:

(ii) any lease, licence, permit, Order in Council, or approval described in section 425:

(iii) any permitted activity in the coastal marine area:

(iv) any other lawful activity.

Section 153(b)(i): replaced, on 1 August 2003, by section 59 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 153(b)(ii): replaced, on 1 August 2003, by section 59 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 153(b)(ii): amended, on 1 January 2005, by section 15(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 153(c): amended, on 1 January 2005, by section 15(2) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 153(c): amended, on 7 July 1993, by section 81 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 153(d): replaced, on 17 December 1997, by section 33(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 153(e)(ii): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 154 Publication, etc, of Order in Council

The Minister shall as soon as practicable—

(a) cause a copy of every Order in Council to be served on the appropriate regional council; and

(b) cause a notice of the making of the Order in Council and its effect to be served on—

(i) the Minister for the Environment:

(ii) *[Repealed]*

(iii) every territorial authority whose district or any part of whose district is situated within the region to which the Order in Council relates:

(iv) the tangata whenua of that region, through iwi authorities.

(c) *[Repealed]*

Section 154(b)(ii): repealed, on 1 October 2009, by section 101 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 154(b)(iv): amended, on 10 August 2005, by section 84 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 154(c): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 155 Particulars of Order in Council to be endorsed on regional coastal plan

On receipt of a copy of an Order in Council under section 154, the regional council shall endorse particulars of it on the regional coastal plan or proposed regional coastal plan, but such endorsement shall not form part of the plan.

### 156 Effect of Order in Council

Except as otherwise provided in section 153, where an Order in Council is in force in respect of any part of the coastal marine area, a consent authority shall not grant a coastal permit to do any of the following in that part:

(a) *[Repealed]*

(b) remove any sand, shingle, shell, or other natural material, within the meaning of section 12(4), from any such land; or

(c) reclaim or drain any of such land that is foreshore or seabed—

unless the applicant for that permit is the holder of an authorisation authorising such taking, removal, reclamation, or drainage, or unless that Order in Council does not require that any such authorisation be held.

Section 156: amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 156: amended, on 1 January 2005, by section 16(b) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 156(a): repealed, on 1 January 2005, by section 16(a) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 156(b): amended, on 7 July 1993, by section 82 of the Resource Management Amendment Act 1993 (1993 No 65).

### 157 Calling of public tenders for authorisations

(1) Where an Order in Council is in force in respect of any part of the coastal marine area, the Minister may, from time to time and at any time, by public tender of which public notice has been given, offer authorisations for the whole or any portion of that part in respect of all or any activities to which the Order in Council applies.

(2) The public notice of every such offer shall—

(a) specify the range of activities to which the authorisation, once issued, will apply; and

(b) describe the area of land to which the authorisation, once issued, will apply, including the size, shape, and location of that area; and

(c) specify the closing date for tenders, which may be any date the Minister considers appropriate; and

(d) specify the manner in which tenders must be submitted.

(3) Every such public notice may also specify—

(a) *[Repealed]*

(b) in the case of extraction, the maximum tonnage and period (not exceeding 35 years) of extraction:

(c) whether or not it is intended that the area will be retendered when the coastal permit to which it relates expires.

(4) The Minister may amend, revoke, or replace any such notice before the time by which tenders must be received expires.

Section 157(3)(a): repealed, on 1 January 2005, by section 17 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 158 Requirements of tender

(1) Every tender for an authorisation shall—

(a) specify the activity or range of activities in respect of which the authorisation is sought; and

(b) *[Repealed]*

(c) in respect of an activity to which section 152(1)(b) applies, the maximum period of any proposed coastal permit, and the maximum amount of material proposed to be extracted under the permit; and

(d) specify the total remuneration offered, including—

(i) any initial payment for the authorisation:

(ii) *[Repealed]*

(iii) any royalty for the extraction of material, and any proposed formula for adjustment of royalty.

(1A) *[Repealed]*

(2) Every such tender shall be accompanied by—

(a) the prescribed fee (if any) and, if an initial payment for the authorisation is offered, a cash deposit of that payment or equivalent security to the satisfaction of the Minister; and

(b) any additional information specified in the public notice calling for tenders.

Section 158(1)(b): repealed, on 1 January 2005, by section 18 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 158(1)(d)(ii): repealed, on 1 January 2005, by section 18 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 158(1A): repealed, on 1 January 2005, by section 18 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 159 Acceptance of tender, etc

(1) After having regard to—

(a) the interests (including the financial interests) of the Crown in the coastal marine area; and

(b) the financial and other circumstances of the tenderers; and

(c) any other matters the Minister considers relevant—

the Minister may in the Minister's discretion—

(d) accept any tender, whether or not it is the highest tender; or

(e) enter into private negotiations with any tenderer, whether or not that tenderer offered the highest tender, with a view to reaching an agreement; or

(f) reject all tenders and call for new tenders under section 157.

(2) On making a decision to accept a tender or to reject all tenders, the Minister shall forthwith give written notification of the decision and the reasons for it to the appropriate regional council and every tenderer.

(3) When giving notification under subsection (2) of the decision to accept a tender, the Minister shall include in the notification details of the name of the successful tenderer and the nature of the activity to which the tender relates.

(4) If the Minister reaches an agreement with a tenderer pursuant to subsection (1)(e), the Minister shall forthwith give written notification to the appropriate regional council and every other tenderer of the name of the person with whom agreement was reached and the nature of the activity to which the agreement relates.

### 160 Notice of acceptance of tender

(1) Every tender accepted in accordance with section 159 shall be by written notice of acceptance given by the Minister to the successful tenderer.

(2) At the same time as giving any written notice of acceptance under subsection (1), the Minister shall also give written notice to every other tenderer of the failure of their tender and, on request, shall return all documents submitted with each unsuccessful tender.

### 161 Grant of authorisation

(1) Where the Minister gives notice of acceptance of a tender under section 160 or enters into an agreement satisfactory to the Minister under section 159(1)(e), the Minister shall grant a written authorisation, in such form as he or she thinks appropriate, to the successful tenderer or the person with whom the agreement was entered into, as the case may be.

(2) The Minister shall cause a copy of every such authorisation to be given to the appropriate regional council.

### 162 Authorisation not to confer right to coastal permit, etc

(1) The granting of an authorisation under section 161 shall not confer any right to the grant of a coastal permit in respect of the area to which the authorisation relates.

(2) If a coastal permit is granted to the holder of an authorisation in respect of an area to which the authorisation relates, that permit—

(a) in the case of an activity to which section 152(1)(b) applies,—

(i) must not be granted for a period greater than the period specified in the authorisation; and

(ii) must not authorise the removal of any material at a rate, or of a total quantity, greater than that specified in the authorisation; and

(b) is subject to section 112.

(c) *[Repealed]*

Section 162(2)(a): replaced, on 1 January 2005, by section 19 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 162(2)(b): replaced, on 1 January 2005, by section 19 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 162(2)(c): repealed, on 1 January 2005, by section 19 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 163 Authorisation transferable

Every authorisation may be transferred by its holder to any other person, but the transfer shall not take effect until written notice of it has been given to and received by the Minister and the appropriate regional council.

### 164 Authorisation to lapse in certain circumstances

(1) Subject to subsection (2), an authorisation shall lapse unless, within 2 years after it was granted, its holder has obtained a coastal permit which includes conditions authorising the holder to undertake the activity and (if relevant) occupy the area in respect of which the authorisation was granted.

(2) Where—

(a) before the second anniversary of the date an authorisation is granted, its holder has applied for a coastal permit in respect of the activity to which the authorisation relates; and

(b) on that second anniversary date—

(i) no decision has been made by the consent authority on that application; or

(ii) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but no decision has been made by the court on that appeal—

the authorisation shall not lapse until the time for lodging an appeal in respect of the decision has expired, or the decision of the court in respect of any appeal has been given.

Section 164(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 164(2)(b)(ii): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 165 Tender money

(1) Where a person to whom an authorisation has been granted forwarded an initial payment to the Minister pursuant to section 158(2), the money shall be the

property of the Crown, and, on granting the authorisation, the Minister shall cause that money to be paid into a Crown Bank Account in accordance with the Public Finance Act 1989.

(2) Where an authorisation granted to a person to whom subsection (1) applies has lapsed pursuant to section 164, the Minister shall cause 80% of the initial payment to be refunded to that person from a Crown Bank Account.

(3) Where any tenderer who has failed to obtain an authorisation forwarded an initial payment to the Minister pursuant to section 158(2), the Minister shall as soon as practicable cause that money to be refunded to that tenderer.

Section 165(1): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 165(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

# Part 7A
# Occupation of common marine and coastal area

Part 7A: inserted, on 1 January 2005, by section 20 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Part 7A heading: amended, on 1 October 2011, by section 48 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## 165A Overview

(1) This section provides a general indication of the contents of this subpart and does not affect the interpretation or application of this subpart.

(2) Subpart 1 contains provisions about managing occupation of the common marine and coastal area, in particular,—

(a) a power to refuse to receive an application for a coastal permit to occupy the common marine and coastal area if made within 1 year after refusing a similar application:

(b) provisions about the contents of a regional coastal plan:

(c) requirements for a regional council (before including a rule in a regional coastal plan or proposed regional coastal plan about the allocation of space in the common marine and coastal area) to have regard to, and be satisfied about, certain matters:

(d) a power by Order in Council to direct a regional council not to proceed with the allocation of authorisations or to proceed as specified in the order:

(e) a power of the Minister of Conservation to approve a method of allocating authorisations:

(f) general provisions about authorisations:

(g) a power of the Minister of Aquaculture, on request from a regional council, to suspend receipt of applications for coastal permits to occupy space

in the common marine and coastal area for aquaculture activities or to direct a regional council to process and hear applications together.

(3) Subpart 2 has been repealed.

(4) Subpart 3 relates to applications (made on or after 23 August 2004) for coastal permits to occupy space for aquaculture activities where the relevant space is already subject to a coastal permit or deemed coastal permit and the relevant plan does not provide for a method of allocating authorisations for occupation of the space for aquaculture activities. The provisions of this subpart provide priority for the processing of applications from existing permit holders ahead of other applications.

(5) Subpart 4 provides for plan change requests and concurrent coastal permit applications in relation to a rule in a regional coastal plan that,—

(a) as at 1 October 2011, specifies an aquaculture activity as a prohibited activity; and

(b) is operative when a concurrent application is lodged.

Section 165A: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165AB Establishment of aquaculture management areas

*[Repealed]*

Section 165AB: repealed, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165B Relationship of Part with rest of Act

The provisions of this Act that relate to applications for, and the granting of, resource consents apply to applications for, and the granting of, coastal permits to occupy space in the common marine and coastal area subject to the provisions of this Part.

Section 165B: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165BB Some applications for coastal permits must be cancelled

*[Repealed]*

Section 165BB: repealed, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165BC Certain applications not to be processed or determined until aquaculture management area established in regional coastal plan

*[Repealed]*

Section 165BC: repealed, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## Subpart 1—Managing occupation in common marine and coastal area

Subpart 1: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165C Interpretation

In this subpart, unless the context otherwise requires,—

**authorisation** means the right to apply for a coastal permit to occupy space in a common marine and coastal area

**Minister** means the Minister of Conservation

**public notice** has the same meaning as in section 2AB

**tender** means any form of tender (whether public or otherwise)

**trustee** has the same meaning as in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Compare: 1991 No 69 s 165A

Section 165C: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165C **public notice**: amended, on 18 October 2017, by section 156 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 165D Power of consent authorities to refuse to receive applications for coastal permits

For the purposes of this subpart, a consent authority may refuse to receive an application for a coastal permit to occupy space in the common marine and coastal area for the purpose of an activity if, within 1 year before the application is made, the consent authority has refused to grant an application for a permit for an activity of the same or a similar type in respect of the same space or in respect of space in close proximity to the space concerned.

Compare: 1991 No 69 s 165B

Section 165D: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165E Applications in relation to aquaculture settlement areas

(1) No person may apply for a coastal permit authorising occupation of space in an aquaculture settlement area (within the meaning of the Maori Commercial Aquaculture Claims Settlement Act 2004), for the purpose of aquaculture activities, unless the person is a holder of an authorisation that—

(a) relates to that space and activity; and

(b) was provided to the trustee under section 13 of that Act.

(2) A consent authority may grant a coastal permit authorising any other activity in an aquaculture settlement area, but only—

(a) to the extent that that activity is compatible with aquaculture activities; and

(b) after consultation with the trustee and iwi in the region.

(3) Subsection (1) does not affect any application received by a consent authority—

(a) after 1 January 2005; but

(b) before the space became an aquaculture settlement area.

(4) In subsection (2)(b), **iwi** has the same meaning as in the Maori Fisheries Act 2004.

Section 165E: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### *Regional coastal plan provisions relating to occupation of common marine and coastal area*

Heading: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165F Provisions about occupation of common marine and coastal area

(1) A regional coastal plan or proposed regional coastal plan may include provisions to address the effects of occupation of a common marine and coastal area and to manage competition for the occupation of space, including rules specifying—

(a) that no application can be made for a coastal permit to occupy space before a date to be specified in a public notice:

(b) that the consent authority may process and hear together applications for coastal permits for the occupation of—

(i) the same space in a common marine and coastal area; or

(ii) different spaces in a common marine and coastal area that are in close proximity to each other:

(c) that the consent authority may process and hear together with the applications referred to in paragraph (b) any applications for coastal permits related to the coastal permits referred to in paragraph (b):

(d) limits on—

(i) the character, intensity, or scale of activities associated with the occupation of space:

(ii) the size of space that may be the subject of a coastal permit and the proportion of any space that may be occupied for the purpose of specified activities.

(2) However, a rule made for the purposes of subsection (1)(a) does not apply to an application made for a coastal permit under an authorisation.

(3) For the purposes of subsection (1), a provision in a regional coastal plan or proposed regional coastal plan may relate to an activity, 1 or more classes of activities, or all activities.

Compare: 1991 No 69 s 165D

Section 165F: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165G Plan may specify allocation methods

A regional coastal plan or proposed regional coastal plan may provide for a rule in relation to a method of allocating space in the common marine and coastal area for the purposes of an activity, including a rule in relation to the public tender of authorisations or any other method of allocating authorisations.

Compare: 1991 No 69 s 165H

Section 165G: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165H Regional council to have regard to and be satisfied about certain matters before including allocation rule in regional coastal plan or proposed regional coastal plan

(1) Before including a rule in a regional coastal plan or proposed regional coastal plan in relation to the allocation of space in a common marine and coastal area for the purposes of an activity, a regional council must—

(a) have regard to—

(i) the reasons for and against including the proposed rule; and

(ii) if the proposed rule provides for a method of allocation of space other than by a method of allocating authorisations,—

(A) the reasons why allocation other than by a method of allocating authorisations is justified; and

(B) how this may affect the preferential rights provided for in section 165W; and

(iii) if the proposed rule provides for a method of allocating authorisations other than by public tender,—

(A) the reasons why allocation other than by public tender is justified; and

(B) how this may affect the preferential rights provided for in section 165W; and

(b) be satisfied that—

(i) a rule in relation to the allocation of space is necessary or desirable in the circumstances of the region; and

(ii) if the proposed method of allocating space is not allocation of authorisations, or the proposed allocation of authorisations is not by public tender, the proposed method is the most appropriate for allocation of space in the circumstances of the region, having regard to its efficiency and effectiveness compared to other methods of allocating space.

(1A) The regional council must—

(a) prepare a report summarising the matters required by subsection (1); and

(b) make the report available for public inspection at the same time, or as soon as practicable after, the rule is included in the regional coastal plan or proposed regional coastal plan.

(2) Sections 32 and 32AA do not apply to the inclusion of a rule in accordance with subsection (1).

(3) Subsection (1) applies subject to an Order in Council made under section 165K.

(4) A challenge to a rule on the ground that this section has not been complied with may be made only in a submission under Schedule 1.

(5) Subsection (4) does not preclude a person who is hearing a submission or an appeal on a proposed regional coastal plan from taking into account the matters stated in subsection (1).

Compare: 1991 No 69 s 165I

Section 165H: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165H(1A): inserted, on 3 December 2013, for all purposes, by section 80(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 165H(2): amended, on 3 December 2013, for all purposes, by section 80(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 165I Offer of authorisations for activities in common marine and coastal area in accordance with plan

(1) If a regional coastal plan includes a rule that provides for public tendering or another method of allocating authorisations, the regional council must, by public notice and in accordance with the rule, offer authorisations for coastal permits for the occupation of space in the common marine and coastal area.

(2) Subsection (1) applies subject to—

(a) subsection (3); and

(b) any Order in Council made under section 165K.

(3) A regional council must give the Minister not less than 4 months' notice before making an offer of authorisations under subsection (1).

Compare: 1991 No 69 s 165F

Section 165I: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165J When applications not to be made unless applicant holds authorisation in accordance with plan

(1) Subsection (2) applies to space in the common marine and coastal area if a regional coastal plan or a rule in a proposed regional coastal plan that has legal effect provides for public tendering or another method of allocating authorisations in relation to an activity in the space.

(2) A person must not apply for a coastal permit authorising occupation of the space for the activity unless the person is the holder of—

(a) an authorisation that relates to the space and activity; or

(b) a coastal permit granted under an authorisation that related to the occupation of that space and the application is for an activity that was within the scope of the authorisation.

(3) Subsection (2) does not affect any applications received by the regional council before the regional coastal plan became operative or the rule in a proposed regional coastal plan had legal effect.

(4) Subsection (2) does not affect any application referred to in section 165ZH that is received by the regional council—

(a) after a rule in a proposed regional coastal plan has legal effect; but

(b) before the rule becomes operative.

Compare: 1991 No 69 s 165K

Section 165J: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165K Power to give directions relating to allocation of authorisations for space provided for in plan

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, direct a regional council whose regional coastal plan or any proposed regional coastal plan provides for a rule in relation to a method of allocating authorisations for space in a common marine and coastal area—

(a) not to proceed with a proposed allocation of authorisations for space in a common marine and coastal area; or

(b) in proceeding with a proposed allocation of authorisations for space in a common marine and coastal area, to give effect to the matters specified in the Order in Council.

(2) The Minister may make a recommendation under subsection (1) only for 1 or more of the following purposes:

(a) to give effect to Government policy in the common marine and coastal area:

(b) to preserve the ability of the Crown to give effect to any of its obligations under any agreement in principle or deed of settlement between the Crown and any group of Māori claimants or representative of any group

of Māori claimants in relation to a claim arising from, or relating to, any act or omission by or on behalf of the Crown or by or under any enactment before 21 September 1992:

(c) to facilitate compliance with section 165W:

(d) to assist the Crown to comply with its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

(3) The matters referred to in subsection (1)(b) include—

(a) the allocation method to be used:

(b) subject to sections 123 and 123A, the maximum term of a coastal permit to which the authorisations available for allocation relate:

(c) the allocation, at no cost, of authorisations relating to specific spaces within a common marine and coastal area to the Crown:

(d) the allocation, at no cost, of authorisations relating to specific spaces in a common marine and coastal area, or a certain proportion of the authorisations proposed to be allocated, to the trustee that is representative of the entire space for which authorisations are to be offered under the proposed allocation.

(4) If an Order in Council contains a direction under subsection (3)(a), the order must be made before—

(a) the relevant proposed plan is notified under clause 5 or 26 of Schedule 1; or

(b) the Minister approves the relevant regional coastal plan under clause 19 of Schedule 1.

(5) If an Order in Council contains a direction under subsection (3)(b), (c), or (d), the order must be made before the regional council publicly notifies the offer under section 165I.

(6) Subject to subsection (4), the Minister may make a recommendation under subsection (1) only if the Minister makes the recommendation within 3 months after receiving a notice under section 165I(3).

(7) An Order in Council does not affect the following if made before the Order in Council comes into force:

(a) a publicly notified offer of authorisations:

(b) an application for a coastal permit.

(8) An authorisation allocated in accordance with subsection (3)(d) is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004.

(9) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 165O

| Legislation Act 2019 requirements for secondary legislation made under this section | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 165K: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165K(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### *Ministerial approval of use of method of allocating authorisations*

Heading: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165L Regional council may request use of allocation method

(1) This section applies if—

(a) in a regional council's opinion it is desirable due to actual or anticipated high demand or competing demands for coastal permits for occupation of space in the common marine and coastal area for the purpose of 1 or more activities, that a method be used to allocate authorisations for the space; and

(b) either—

(i) a regional coastal plan does not provide for a rule in relation to a method of allocating authorisations for the space for the purpose of the activities; or

(ii) a regional coastal plan does provide for a rule referred to in subparagraph (i), but the regional council considers that it will not enable it to manage effectively the high demand or the competing demands for coastal permits for the occupation of space for the purpose of the activities.

(2) The regional council may request the Minister to approve allocation by public tender of authorisations or another method of allocating authorisations for the space in the common marine and coastal area.

(3) A request under subsection (2) must—

(a) specify,—

(i) if it does not relate to a public tender, the proposed method for allocation of authorisations; and

(ii) the activities it is proposed the public tender or other allocation method will apply to; and

(iii) the space in the common marine and coastal area it is proposed the public tender or other allocation method will apply to; and

(iv) how and when the public tender or other method for allocating authorisations is proposed to be implemented in the space, including any staging of the allocation; and

(v) the reasons for the council's opinion that it is desirable that an allocation method be used in relation to the space; and

(b) if the proposed allocation method is not public tender, give reasons why the council proposes to use the alternative allocation method; and

(c) be accompanied by information about the actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purposes of the activity or activities covered by the request.

(4) A request under subsection (2) may relate to a single use of the proposed allocation method or its use on more than 1 occasion.

(5) On the day a request is made under subsection (2), or as soon as practicable afterwards, a regional council must—

(a) give public notice of the request; and

(b) give notice of the request to the Environmental Protection Authority.

(6) A public notice under subsection (5) must include—

(a) the matters in subsection (3)(a)(i) to (iii); and

(b) a statement to the effect of section 165M(2) and (3).

Section 165L: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165M Stay on applications following request under section 165L

(1) Subsection (2) applies if a regional council has made a request under section 165L(2).

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purpose of an activity in the request during the period commencing on the day on which public notice of the request is given under section 165L(5)(a), and ending on the earlier of—

(a) the day on which the regional council publicly notifies under section 165N(8) that the request has been declined; or

(b) the day on which the approval of an allocation method is notified in the *Gazette* under section 165N(1)(c)(i).

(3) If the request is approved, section 165Q applies to applications from the date the approval applies.

(4) Neither this section nor section 165Q affects any application received by the regional council before the request was made under section 165L(2) or any application referred to in section 165ZH.

Section 165M: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165N Minister may approve use of allocation method

(1) If the Minister receives a request under section 165L(2), the Minister—

(a) must consult with relevant Ministers, including the Minister of Aquaculture (if the request relates to aquaculture activities); and

(b) may—

(i) consult any other person whom the Minister considers it appropriate to consult; and

(ii) request any further information from the regional council that made the request; and

(c) must, within 25 working days after the date of receipt of the request,—

(i) by notice in the *Gazette*, approve the request—

(A) on the terms specified by the regional council in the request; or

(B) on terms that in the Minister's opinion will better manage the actual or anticipated high demand or competing demands in the space; or

(ii) decline the request.

(2) A failure to comply with the time limit in subsection (1)(c) does not prevent the Minister from making a decision on the request.

(3) Any period of consultation under subsection (1)(b)(i) is excluded from the period specified in subsection (1)(c).

(4) The Minister must not approve the request unless he or she considers that—

(a) there is actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purpose of the activity or activities that the request applies to; and

(b) the method and terms of allocation specified in the request, or any modified terms determined by the Minister will—

(i) effectively manage the actual or anticipated high demand or competing demands identified under paragraph (a); and

(ii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) In considering whether to approve a request, the Minister must have regard to—

(a) Government policy in relation to the common marine and coastal area:

(b) the ability of the Crown to give effect to any of its obligations under any agreement in principle or deed of settlement between the Crown and any group of Māori claimants or representative of any group of Māori claimants in relation to a claim arising from, or relating to, any act or omission

by or on behalf of the Crown or by or under any enactment before 21 September 1992:

(c) the need to facilitate compliance with section 165W:

(d) the ability of the Crown to give effect to its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

(6) As soon as practicable after deciding whether to approve a request, the Minister must notify the Environmental Protection Authority of his or her decision.

(7) A *Gazette* notice under subsection (1)(c)(i)—

(a) must specify,—

(i) if the approval does not relate to a public tender, the other allocation method that is approved; and

(ii) the space and activities that the public tender or other allocation method will apply to; and

(iii) how and within what period the public tender or other allocation method must be implemented, including any staging of the allocation; and

(b) may also specify 1 or more of the following:

(i) whether the approval is for a single public tender, or a single use of the allocation method or is to be used on more than 1 occasion; and

(ii) an expiry date for the approval; and

(iii) a date by which authorisations allocated in accordance with the public tender or other allocation method will lapse, being a date that is not more than 2 years after the date on which an authorisation is granted; and

(iv) any restrictions on transferring authorisations allocated under the public tender or other allocation method; and

(v) that applications received in respect of authorisations allocated under the public tender or other allocation method (together with any other applications for coastal permits related to the activities to which the authorisation relates) must be processed and heard together; and

(vi) subject to sections 123 and 123A, the maximum term of a coastal permit to which the authorisations available for allocation relate; and

(vii) that authorisations relating to specific spaces within a common marine and coastal area must be allocated to the Crown at no cost; and

(viii) that authorisations relating to specific spaces, or a certain proportion of the authorisations that are representative of the entire space

for which authorisations are to be offered in accordance with the public tender or other allocation method, must be allocated to the trustee at no cost.

(8) If the Minister declines a request made under section 165L(2),—

(a) the Minister must notify the regional council of the decision to decline the request; and

(b) the regional council must as soon as practicable after receiving notice under paragraph (a) publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for any activity that was the subject of the request.

(9) A provision in a regional coastal plan that relates to the allocation of space to which a *Gazette* notice under this section relates does not apply during the period of the approval to the extent that it is inconsistent with the terms of the *Gazette* notice.

(10) An authorisation allocated in accordance with subsection (7)(b)(viii) is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Section 165N: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165O Period of approval

(1) An approval to use a public tender or other method to allocate authorisations applies on and from the date on which the relevant *Gazette* notice is published until the earliest of the following dates:

(a) the date on which it is expressed in the relevant *Gazette* notice to expire or any date substituted under subsection (3); or

(b) the date it lapses under section 165P(2); or

(c) the date it is revoked by a further notice in the *Gazette* under subsection (2).

(2) The Minister may, by notice in the *Gazette*, revoke an approval to use a public tender or other allocation method to allocate authorisations if the Minister—

(a) is requested to do so by the regional council; and

(b) considers that—

(i) there are no longer actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; or

(ii) the regional council has in place other methods that will satisfactorily manage actual or likely high demand or competing demands

for coastal permits to occupy the space for the relevant activity or activities.

(3) The Minister may, by notice in the *Gazette*, substitute another date in the relevant *Gazette* notice for the date on which the relevant *Gazette* notice is to expire if—

(a) the Minister receives a request from the regional council to do so; and

(b) the Minister considers that—

(i) there remains actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; and

(ii) the regional council does not have in place other methods that will satisfactorily manage the high demand or competing demands.

Section 165O: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165P Offer of authorisations where approved by Minister

(1) If the Minister approves the use of a public tender or other method for allocating authorisations under section 165N(1)(c), the regional council must by public notice offer authorisations for coastal permits for the occupation of space in the common marine and coastal area in accordance with the terms of that approval.

(2) A *Gazette* notice under section 165N(1)(c) lapses if the regional council does not carry out the public tender or implement the other approved allocation method within the period specified in the notice (or any extension of time specified by the Minister in a further notice under subsection (3)).

(3) The Minister may by notice in the *Gazette* approve an extension of time for carrying out a public tender or implementing the other approved allocation method, but only if the Minister is satisfied that—

(a) the regional council has taken all reasonable steps to carry out the public tender or implement the other approved allocation method; and

(b) the regional council requires further time to carry out the public tender or implement the other approved allocation method.

Section 165P: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165Q When applications not to be made or granted unless applicant holds authorisation in accordance with *Gazette* notice

(1) Subsection (2) applies to space in the common marine and coastal area if the Minister has approved public tendering or another method for allocating authorisations in relation to any activity in that space by a *Gazette* notice under section 165N(1)(c)(i).

(2) During the period that the approval to use public tendering or another allocation method applies, no person may apply for a coastal permit authorising occupation of the space for an activity covered by the approval unless the person is the holder of an authorisation that relates to that space and activity.

Section 165Q: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

*Authorisations*

Heading: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165R Authorisation not to confer right to coastal permit

(1) The granting of an authorisation does not confer any right to the grant of a coastal permit in respect of the space that the authorisation relates to.

(2) However, if a coastal permit is granted to the holder of an authorisation, the permit must be within the terms of the authorisation, including not being granted for a period greater than the period specified in the authorisation.

Compare: 1991 No 69 s 165L

Section 165R: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165S Authorisation transferable

(1) An authorisation or any part of it may be transferred by its holder to any other person, but the transfer does not take effect until written notice of it has been received by the regional council concerned.

(2) This section applies subject to any restrictions on the transfer of authorisations specified in—

(a) the *Gazette* notice under section 165N under which the authorisations were allocated; and

(b) the relevant regional coastal plan under which the authorisations were allocated.

Compare: 1991 No 69 s 165M

Section 165S: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165T Authorisation lapses in certain circumstances

(1) An authorisation lapses at the close of 2 years after the day on which it is granted (or any earlier day that may be specified in the authorisation) unless subsection (3) applies.

(2) Subsection (3) applies,—

(a) for an authorisation for which no earlier date is specified, if,—

(i) before the second anniversary of the date on which an authorisation is granted, its holder has applied for a coastal permit to

occupy space in respect of the activity that the authorisation relates to; and

(ii) on the second anniversary date,—

(A) no decision has been made by the consent authority whether to grant or decline the application; or

(B) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but no decision has been made by the court on the appeal; or

(b) for an authorisation specified to lapse on a date earlier than 2 years after the day on which it is granted, if,—

(i) before the date specified in the authorisation, its holder has applied for a coastal permit to occupy space in respect of the activity that the authorisation relates to; and

(ii) on the date specified in the authorisation,—

(A) no decision has been made by the consent authority whether to grant or decline the application; or

(B) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but no decision has been made by the court on the appeal.

(3) The authorisation does not lapse until—

(a) the time for lodging an appeal in respect of the decision has expired and no appeal has been lodged; or

(b) an appeal has been lodged and the court has given its decision on the appeal.

Compare: 1991 No 69 s 165N

Section 165T: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165U Public notice of offer of authorisations by regional council

(1) A notice given under section 165I or 165P(1) must—

(a) specify the activities that the authorisation will apply to after it is issued; and

(b) describe the space in the common marine and coastal area that offers for authorisations are invited for, including the size and location of the space; and

(c) subject to sections 123 and 123A, specify the maximum term of the coastal permit; and

(d) specify the closing date for offers; and

(e) specify the criteria that the regional council will apply in selecting successful offers for authorisations; and

(f) include details of any direction given under section 165K in relation to the offer of authorisations by the regional council; and

(g) specify the manner in which offers for authorisations must be submitted; and

(h) specify any charge payable under section 36(1)(ca); and

(i) specify any other matter that the regional council considers appropriate in the circumstances.

(2) A notice may specify conditions on which the authorisation will be granted, including—

(a) a date earlier than 2 years from the date of its granting on which the authorisation will lapse; and

(b) restrictions on the transfer of authorisations.

(3) If an offer of authorisations is to be by tender, the notice must also—

(a) specify the form of remuneration required, whether all by advance payment, or by deposit and annual rental payments; and

(b) specify whether or not there is a reserve price.

(4) This section applies subject to an Order in Council made under section 165K.

Compare: 1991 No 69 s 165P

Section 165U: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165V Requirements for offers for authorisations

(1) An offer for an authorisation must specify—

(a) the activity or range of activities in respect of which the authorisation is sought; and

(b) the site it applies to.

(2) In the case of a tender for authorisations, the tender must also specify—

(a) the total remuneration offered (including any annual rental component); and

(b) the form of payment of the remuneration.

(3) A tender must be accompanied by—

(a) a cash deposit (being payment in advance of part of the remuneration) or equivalent security to the satisfaction of the regional council; and

(b) any additional information specified in the notice calling for tenders.

(4) An offer or a tender must be accompanied by any charge payable under section 36(1)(ca).

(5) If a tender is accepted under section 165X, the amount of any annual rental component of the remuneration payable under subsection (2) must be reduced by the amount of any coastal occupation charges payable under section 64A for the occupation of the area concerned.

Compare: 1991 No 69 s 165Q

Section 165V: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165W Preferential rights of iwi

(1) In conducting a tender of authorisations under this Part, a regional council must give effect to any preferential right to purchase a proportion of the authorisations.

(2) Subsection (1) applies to preferential rights conferred by—

(a) section 316 of the Ngāi Tahu Claims Settlement Act 1998:

(b) section 119 of the Ngati Ruanui Claims Settlement Act 2003:

(c) section 79 of the Ngati Tama Claims Settlement Act 2003:

(d) section 106 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005:

(e) section 118 of the Ngāti Awa Claims Settlement Act 2005:

(f) section 92 of the Ngāti Mutunga Claims Settlement Act 2006.

(3) For the purposes of subsection (1), provisions in the Acts referred to in subsection (2) relating to a preferential right that contain references to the Minister of Conservation or Part 7 of this Act apply as if the references were to the regional council and relevant provisions of this Part.

Compare: 1991 No 69 s 165R

Section 165W: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165X Acceptance of offer for authorisations

(1) After considering the offers for authorisations in accordance with the criteria specified under section 165U, the regional council may—

(a) accept any offer; or

(b) reject all offers; or

(c) reject all offers and call for new offers; or

(d) negotiate with any person who made an offer with a view to reaching an agreement.

(2) If the offer of authorisations is a tender, the regional council may accept any tender or negotiate with any tenderer, whether or not the tender was the highest received.

(3) As soon as practicable after deciding to accept an offer for an authorisation or to reject all offers or after reaching an agreement, the regional council must

give written notice of the decision and the reasons for it to every person who made an offer.

(4) If an offer is accepted or an agreement is reached, the notice under subsection (3) must include details of the name of the person who made the offer and the nature of the activity that the offer or agreement relates to.

Compare: 1991 No 69 s 165S

Section 165X: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165Y Grant of authorisation

If the regional council accepts an offer or reaches an agreement with a person who made an offer under section 165X, the regional council must grant an authorisation to the person concerned.

Compare: 1991 No 69 s 165T

Section 165Y: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165Z Tender money

(1) If the holder of an authorisation obtains a coastal permit authorising the holder to undertake an activity in respect of which the authorisation was granted, the regional council must forward to the Minister 50% of the remuneration received under the tender.

(2) The Minister must cause the money to be paid into a Crown Bank Account in accordance with the Public Finance Act 1989.

(3) If an authorisation granted to a successful tenderer has lapsed under section 165T, the regional council must, as soon as possible, refund the remuneration to the tenderer.

(4) If a tenderer who has failed to obtain an authorisation forwarded a payment to the regional council under section 165V(3), the regional council must, as soon as possible, refund the payment to the tenderer.

Compare: 1991 No 69 s 165U

Section 165Z: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZA Use of tender money

The regional council must apply its share of the remuneration to achieving the purpose of this Act in the coastal marine area in its region.

Compare: 1991 No 69 s 165V

Section 165ZA: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

*Ministerial powers in relation to applications for coastal permits to undertake aquaculture activities in common marine and coastal area*

Heading: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZB Regional council may request suspension of applications to occupy common marine and coastal area for purposes of aquaculture activities

(1) This section applies if—

(a) a regional council has identified actual or anticipated high demand or competing demands for coastal permits for occupation of space in a common marine and coastal area for the purpose of aquaculture activities; and

(b) in the regional council's opinion—

(i) the provisions of a regional coastal plan will not enable it to manage effectively the identified demands; and

(ii) it is desirable that applications for coastal permits for occupation of space in a common marine and coastal area for the purpose of aquaculture activities be suspended to enable the regional council to amend its regional coastal plan or to use other measures available under this subpart to deal with the identified demands.

(2) The regional council may request the Minister of Aquaculture to suspend the receipt of applications for coastal permits to occupy the space for the purpose of aquaculture activities.

(3) A request under subsection (2) must—

(a) specify—

(i) the space in the common marine and coastal area it is proposed the suspension will apply to; and

(ii) the aquaculture activities that it is proposed the suspension will apply to; and

(iii) the planning or other measure that the council proposes to implement to deal with the identified demand; and

(iv) the proposed duration of the suspension, which must be not more than 12 months; and

(b) be accompanied by information about the actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purposes of the aquaculture activities covered by the request.

(4) A regional council must—

(a) give public notice of a request under subsection (2) on the day the request is made or as soon as practicable after the request is made; and

(b) give notice of the request to the Environmental Protection Authority.

(5) A public notice under subsection (4) must include—

(a) the matters specified in subsection (3)(a); and

(b) a statement to the effect of section 165ZC(2) and (3).

(6) To avoid doubt, this section may apply in relation to an aquaculture activity, 1 or more classes of aquaculture activities, or all aquaculture activities.

Section 165ZB: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZC Effect on applications of request under section 165ZB

(1) Subsection (2) applies if a regional council has made a request under section 165ZB(2).

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purpose of an aquaculture activity in the request during the period commencing on the day on which public notice of the request is given under section 165ZB(4)(a), and ending on,—

(a) if the request is declined, the day on which the regional council publicly notifies under section 165ZD(6) that the request has been declined; or

(b) if the request is granted, the date on which the *Gazette* notice issued by the Minister of Aquaculture under section 165ZD in response to the request expires.

(3) Neither this section nor section 165ZD affects—

(a) any application received by the regional council before the request was made under section 165ZB(2):

(b) any application to which section 165ZH applies:

(c) any application made in accordance with an authorisation.

Section 165ZC: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZD Minister of Aquaculture may suspend applications to occupy the common marine and coastal area for the purposes of aquaculture activities

(1) If the Minister of Aquaculture receives a request under section 165ZB(2), the Minister—

(a) must consult the Minister of Conservation; and

(b) may—

(i) consult any other person whom the Minister considers it appropriate to consult; and

(ii) request any further information from the regional council that made the request; and

(c) must, within 25 working days after receiving the request,—

(i) approve the request by notice in the *Gazette*—

(A) on the terms specified by the regional council in the request; or

(B) on terms that in the Minister's opinion will better manage the actual or anticipated high demand or competing demands in the space; or

(ii) decline the request.

(2) A failure to comply with the time limit in subsection (1)(c) does not prevent the Minister from making a decision on the request.

(3) Any period of consultation under subsection (1)(b)(i) is excluded from the period specified in subsection (1)(c).

(4) The Minister must not approve the request unless he or she considers that—

(a) there is actual or likely high demand or competing demands for coastal permits for occupation of the space for the purpose of the aquaculture activities that the request applies to; and

(b) the planning or other measure that the council proposes to implement, or any modified terms determined by the Minister will—

(i) effectively manage the high demand or competing demands identified under paragraph (a); and

(ii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) A *Gazette* notice under subsection (1)(c)(i) must specify—

(a) the space and aquaculture activities that the suspension on applications will apply to; and

(b) the date the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.

(6) If the Minister declines a request made under section 165ZB(2),—

(a) the Minister must notify the regional council of the decision to decline the request; and

(b) the regional council must, as soon as practicable after receiving notice under paragraph (a), publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for any aquaculture activity that was the subject of the request.

(7) The Minister must notify the Minister of Conservation and the Environmental Protection Authority of a decision to issue a *Gazette* notice, or to decline a request for a suspension on receipt of applications.

Section 165ZD: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZE Subsequent requests for direction in relation to suspension of receipt of applications

(1) The Minister of Aquaculture may issue a further *Gazette* notice under section 165ZD before the expiry of a notice issued under that section if—

(a) a request for a further suspension on the receipt of applications is made by a regional council under section 165ZB; and

(b) the Minister considers that—

(i) there remains actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; and

(ii) the regional council does not have in place planning or other measures that will satisfactorily manage the high demand or competing demands; and

(iii) the Minister is satisfied that more time is needed to put in place plan provisions to deal with the demand.

(2) Sections 165ZB to 165ZD apply with any necessary modifications to a request for a further suspension of receipt of applications.

Section 165ZE: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## *Ministerial power to direct applications for coastal permits to undertake aquaculture activities in common marine and coastal area to be processed and heard together*

Heading: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZF Regional council may request direction to process and hear together applications for permits to occupy common marine and coastal area for purpose of aquaculture activities

(1) This section applies if, in a regional council's opinion,—

(a) processing and hearing together applications for coastal permits to occupy space in a common marine and coastal area for the purpose of aquaculture activities would be more efficient and would enable better assessment and management of cumulative effects of the permits; and

(b) a regional coastal plan or proposed regional council plan does not provide adequately for efficient processing and assessment and management of the cumulative effects of permits to occupy the common marine and coastal area for the purpose of the aquaculture activities.

(2) The regional council may request the Minister of Aquaculture to direct the regional council to process and hear together applications for coastal permits to occupy the space for the purpose of aquaculture activities.

(3) A request under subsection (2) must—

(a) specify—

(i) the space in the common marine and coastal area it is proposed the direction will apply to; and

(ii) the aquaculture activities that it is proposed the direction will apply to; and

(iii) the applications or classes of applications it is proposed that the direction will apply to; and

(b) be accompanied by information about why it would be more efficient and would enable better assessment and management of the cumulative effects of coastal permits to occupy the common marine and coastal area for the purposes of aquaculture activities if the direction were made.

Section 165ZF: replaced, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFA Ministerial power to direct applications to be processed and heard together

(1) If the Minister receives a request under section 165ZF(2), the Minister—

(a) must consult the Minister of Conservation: and

(b) may—

(i) consult any other person whom the Minister considers it appropriate to consult; and

(ii) request any further information from the regional council that made the request; and

(c) must, within 25 working days after receiving the request,—

(i) by notice in the *Gazette*, direct the regional council to process and hear together applications for coastal permits to occupy the common marine and coastal area for the purposes of aquaculture activities (together with any other applications for coastal permits related to the aquaculture activities)—

(A) on the terms specified by the regional council in the request; or

(B) on terms that in the Minister's opinion will facilitate efficient processing and better assessment and management of the cumulative effects of the applications that are the subject of the notice; or

(ii) decline the request.

(2) A failure to comply with the time limit in subsection (1)(c) does not prevent the Minister from giving a direction or declining a request.

(3) Any period of consultation under subsection (1)(b)(i) is excluded from the period specified in subsection (1)(c).

(4) The Minister must not give a direction under subsection (1)(c)(i) unless he or she considers that the direction will facilitate efficient processing and better assessment and management of the cumulative effects of the applications that are the subject of the direction.

(5) The *Gazette* notice by which a direction is given under subsection (1)(c)(i) must specify—

(a) the space in the common marine and coastal area that the direction applies to; and

(b) the aquaculture activities that the direction applies to; and

(c) the applications or classes of applications the direction applies to, which,—

(i) subject to subparagraph (ii), may (without limitation) include—

(A) applications made on or after the date of the *Gazette* notice; or

(B) applications made but not determined before the date of the *Gazette* notice; or

(C) applications defined by reference to their contents (for example, by the size of the space they relate to); but

(ii) may not include applications—

(A) in respect of which the regional council has determined, before the date of the *Gazette* notice, to hold a hearing and the hearing has commenced or been completed; or

(B) in respect of which the regional council has determined, before the date of the *Gazette* notice, that no hearing is required; or

(C) to which section 165ZH applies; or

(D) made more than 12 months after the date of the *Gazette* notice; or

(E) in respect of which a notice of motion has been lodged with the Environment Court under section 87G before the date of the *Gazette* notice; or

(F) called in by the Minister of Conservation under section 142 before the date of the *Gazette* notice; or

(G) for which a call-in request has been made by the regional council or the applicant under section 142(1)(b) before the date of the *Gazette* notice, unless the request is declined; or

(H) lodged with the Environmental Protection Authority before the date of the *Gazette* notice, unless the application is referred to the local authority under section 147(1)(c).

(6) The *Gazette* notice by which a direction is given under subsection (1)(c)(i) may also specify that an application made after the notice, and that the notice does not relate to but would otherwise come within the scope of the notice, is not to be processed and heard until decisions have been made and notified on all of the applications to which the *Gazette* notice relates.

(7) The regional council must comply with a provision specified in the *Gazette* notice under subsection (6).

(8) The Minister must notify the decision to give a direction or to decline a request for a direction to the regional council, Minister of Conservation, and the Environmental Protection Authority.

(9) On and from the date of a *Gazette* notice under this section, the regional council concerned must process and hear together applications to which the direction in the *Gazette* notice applies.

Section 165ZFA: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### *Processing and hearing together of applications for coastal permits*

Heading: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFB Application of sections 165ZFC to 165ZFH

Sections 165ZFC to 165ZFH apply if a regional council is required to process and hear together any applications or class of applications for coastal permits to occupy space in the common marine and coastal area under—

(a) a rule included in a regional coastal plan or a proposed regional coastal plan under section 165F; or

(b) a *Gazette* notice under section 165N; or

(c) a *Gazette* notice under section 165ZFA.

Section 165ZFB: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFC Interpretation

In this section and sections 165ZFD to 165ZFH,—

**affected application**, in relation to a PHT requirement,—

(a) means an application for a coastal permit to occupy space in the common marine and coastal area for the purpose of 1 or more activities that is required to be processed and heard together with another application or applications under the PHT requirement; and

(b) includes any other applications for coastal permits that are related to the application referred to in paragraph (a) and that are subject to the PHT requirement

**comes into force** means, in relation to a rule in a proposed regional coastal plan, that the rule has legal effect

**PHT requirement** means a requirement that an application be processed and heard together with another application or applications as provided in a rule or *Gazette* notice referred to in section 165ZFB.

Section 165ZFC: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFD Effect of requirement that applications be processed and heard together on direct referral to Environment Court under sections 87D to 87I

(1) On and from the date on which a PHT requirement comes into force, no person may request that an affected application be determined by the Environment Court under section 87D.

(2) Despite sections 87E to 87G, if at the date the PHT requirement comes into force,—

(a) the regional council is considering a request by an applicant under section 87D in respect of an affected application, the council must not make a decision on the request, but must return the request to the applicant with a notice stating that the application is one to which a PHT requirement relates and section 165ZFE applies:

(b) the regional council has granted a request by an applicant under section 87D in respect of an affected application, but the applicant had not yet lodged a notice of motion under section 87G(2)(a) in respect of the application,—

(i) the regional council must continue to process the application in accordance with sections 165ZFE and 165ZFF and is not required to comply with section 87F(3) to (5); and

(ii) the applicant may not lodge a notice of motion under section 87G(2)(a).

Section 165ZFD: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFE Processing of affected applications

(1) Sections 88 to 98 apply in respect of each affected application that is subject to a PHT requirement.

(2) The regional council must, as soon as practicable after the latest date on which the period for submissions closes on an affected application to which the PHT requirement relates, advise each of the applicants—

(a) of the names and contact details of the other affected applicants; and

(b) that if the applicant wants the affected applications to be determined by the Environment Court, the applicant has 10 working days from the date of the notice to make such a request.

(3) The applicant must make the request under subsection (2) electronically or in writing on the form prescribed for a request under section 87D.

(4) If the regional council receives requests under subsection (2) from all the applicants in respect of affected applications within the required period, the regional council must decide whether to grant or decline the applicants' requests that all the affected applications be determined by the Environment Court.

(4A) Despite the discretion to grant a request under subsection (4), if regulations have been made under section 360(1)(hm),—

(a) the regional council must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

(b) that obligation to grant the request does not apply if the consent authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.

(5) If subsection (4) applies and the regional council declines the requests, or if the regional council does not receive requests under subsection (2) from all applicants in respect of affected applications within the required period, the regional council must continue to process and hear together the affected applications in accordance with this section and section 165ZFF.

(6) If subsection (4) applies and the regional council grants the requests, the regional council must prepare a report on each of the affected applications within the period that ends 20 working days after the date on which the regional council decided to grant the requests.

(7) Section 87F(4) to (6) apply to a report prepared under subsection (6) on an affected application.

(8) Each applicant in respect of an affected application must advise the regional council within 5 working days after receipt of a report prepared under subsection (6), whether the applicant continues to want the affected application to be determined by the Environment Court instead of by the regional council.

(9) If the regional council—

(a) receives advice from all the applicants in respect of affected applications that the applicants continue to want the affected applications to be determined by the Environment Court, the regional council must give notice to each applicant that—

(i) the applicant's affected application is to be determined by the Environment Court; and

(ii) the applicant must lodge a notice of motion with the Environment Court that complies with section 87G(2)(a) within 15 working

days after the date of the regional council's notice or the applicant's affected application may be cancelled in accordance with subsection (11); or

(b) does not receive advice from all the applicants in respect of affected applications that the applicants continue to want the affected applications to be determined by the Environment Court, the regional council must—

(i) give notice to each applicant that the applicant's affected application is to be determined by the regional council; and

(ii) continue to process and hear together the affected applications in accordance with this section and section 165ZFF.

(10) Section 87G(2)(b) and (c), (3), and (4) apply in relation to the notice of motion referred to in subsection (9)(a)(ii) with any necessary modifications.

(11) If an applicant does not lodge a notice of motion with the Environment Court within 15 working days after the date of the notice under subsection (9)(a), the regional council must—

(a) give notice to the relevant applicant that unless the applicant lodges the notice of motion within 5 working days of the date of the notice, the applicant's affected application will be cancelled; and

(b) if, within the period notified, or such greater period as the regional council may think reasonable in the circumstances, the applicant does not lodge the notice of motion the regional council must cancel the applicant's affected application.

(12) Sections 87G(5) to (7) and 87H apply in respect of the affected applications.

(13) Sections 99 and 100 apply in respect of any affected application that the regional council is required to process and hear together with other affected applications.

Section 165ZFE: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZFE(4A): inserted, on 4 September 2013, by section 34(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 165ZFE(7): amended, on 4 September 2013, by section 34(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 165ZFE(9)(a)(ii): amended, on 3 March 2015, by section 106(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 165ZFE(11): amended, on 3 March 2015, by section 106(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 165ZFF Hearing of affected applications

The provisions of this Act that relate to the hearing and making of decisions on a coastal permit apply to the affected applications with the following modifications:

(a) if a hearing is to be held in respect of any affected application,—

(i) a hearing must be held in respect of all affected applications; and

(ii) all affected applications must be heard together; and

(b) if an applicant or person who made a submission on an affected application makes a request under section 100A(2), the regional council is not required to comply with section 100A(4) but must instead consider whether to delegate under section 34A(1) its functions, powers, and duties required to hear and decide all the affected applications, to 1 or more hearings commissioners who are not members of the local authority; and

(c) for the purposes of section 101(2), the date for the commencement of the hearing must be—

(i) within 25 working days after the latest closing date for submissions on an affected application to which the PHT requirement relates, if no request is received under section 165ZFE(2); or

(ii) within 25 working days after the date on which the council becomes subject to a requirement to continue to process and hear together affected applications under section 165ZFE(5) or (9); and

(d) despite section 115,—

(i) decisions on the affected applications are, subject to section 88(4), to be made in the order in which the applications were lodged; and

(ii) notice of the decision on each affected application must be given within 30 working days after the end of the hearing or, if no hearing is held, within the period within which a hearing would have been required to be held under paragraph (c)(i) or (ii); and

(e) paragraph (d)(i) is subject to sections 124B and 124C.

Section 165ZFF: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFG Effect of requirement that applications be processed and heard together on power of Minister to call in applications under section 142

(1) Despite sections 142 and 144,—

(a) the Minister must not make a decision as to whether to call in an affected application until all affected applications to which the relevant PHT requirement relates have been identified; and

(b) if the Minister decides to call in an affected application by making a direction under section 142(2), the Minister must, whether or not the Minister considers any other affected application is a proposal or part of a proposal of national significance, call in all the other affected applications under the same direction; and

(c) in deciding whether to make the direction referred to in paragraph (b), the Minister—

(i) may, in addition to the matters specified in section 142(3), consider the impact that the call-in direction would have on the other affected applications, including the impact on the costs the applicants might face; and

(ii) must have regard to the capacity of the local authority to process the affected applications and the views of—

(A) the applicants for all the affected applications; and

(B) the regional council; and

(C) if the PHT requirement was made by *Gazette* notice under section 165ZFA, the Minister of Aquaculture.

(2) Section 165ZFF(a), (d), and (e) apply if the affected applications are heard by the Environment Court or a board of inquiry and, for that purpose, the provisions of Part 6AA apply in respect of the hearing and determination of the affected applications with any necessary modifications.

Section 165ZFG: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZFH Effect of requirement that applications be processed and heard together on lodgement of applications with EPA

On and from the date on which the relevant PHT requirement comes into force, no affected application may be lodged with the Environmental Protection Authority under section 145.

Section 165ZFH: inserted, on 1 October 2011, by section 49 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## Subpart 2—Privately initiated plan changes

*[Repealed]*

Subpart 2: repealed, on 1 October 2011, by section 50 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## Subpart 3—Order in which applications by existing consent holders are to be processed

Subpart 3: inserted, on 1 January 2005, by section 20 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 165ZG Application

(1) This subpart applies—

(a) only to applications for coastal permits to occupy space in the common marine and coastal area for aquaculture activities; and

(b) in relation to such applications made on or after 23 August 2004.

(2) However, this subpart does not apply to an application for a coastal permit to occupy space in the common marine and coastal area for an aquaculture activ-

ity if, at the time the application is made, a regional coastal plan provides for a method of allocating authorisations in respect of the space and activity.

Section 165ZG: inserted, on 1 January 2005, by section 20 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 165ZG(1)(a): replaced, on 1 October 2011, by section 51(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZG(2): replaced, on 1 October 2011, by section 51(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZH Processing applications for existing permit holders

(1) This section applies if—

(a) a person holds—

(i) a deemed coastal permit under section 10, 20, 20A, or 21 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or

(ii) a coastal permit to occupy space in the common marine and coastal area for aquaculture activities, granted after the commencement of this Part; and

(b) the permit referred to in paragraph (a)(i) or (ii) (**existing coastal permit**)—

(i) is in force at the time of any application under paragraph (c); and

(ii) applies in relation to space in the common marine and coastal area in which aquaculture is not a prohibited activity; and

(c) the holder of the existing coastal permit (**existing permit holder**) makes an application for a new coastal permit that is—

(i) for occupation of some or all of the same space; and

(ii) for the same or another aquaculture activity; and

(iii) accompanied by any other applications for coastal permits related to the carrying out of the aquaculture activity; and

(d) the application and any related applications are—

(i) made to the appropriate consent authority; and

(ii) made—

(A) at least 6 months before the expiry of the existing coastal permit; or

(B) in the period that begins 6 months before the expiry of the existing coastal permit and ends 3 months before the expiry of the existing coastal permit, and the authority, in its discretion, allows the holder to continue to operate.

(2) If this section applies, then—

(a) the applications, must be processed and determined before any other application for a coastal permit to occupy the space that the permit applies to; and

(b) no other application to occupy the space that the application relates to may be accepted before the determination of the application; and

(c) the holder may continue to operate under the existing coastal permit until—

(i) a new coastal permit is granted and all appeals are determined; or

(ii) a new coastal permit is declined and all appeals are determined.

Section 165ZH: replaced, on 1 October 2011, by section 52 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZI Applications for space already used for aquaculture activities

(1) This section applies to an application for a coastal permit to occupy space in the common marine and coastal area for aquaculture activities if—

(a) the application relates to space that is subject to a permit referred to in section 165ZH; and

(b) the application is made by a person who is not the existing permit holder.

(2) The application must be held by the consent authority without processing until 3 months before the expiry of the permit.

(3) While the application is being held under subsection (2), the consent authority must not accept any other applications by persons other than the existing permit holder to occupy that space until after the application being held under subsection (2) is determined or has lapsed.

(4) After receiving an application referred to in subsection (1), the council must notify the existing permit holder—

(a) of the application; and

(b) that the holder can make an application in accordance with section 165ZH(1)(c).

(5) If an application to which section 165ZH(1)(c) applies is made, then the application referred to in subsection (1) remains on hold until that application is determined.

(6) If the application to which section 165ZH(2) applies is granted, then the application referred to in subsection (1) lapses.

(7) If no application to which section 165ZH(2) applies is made prior to the date 3 months before expiry of the relevant permit, then the application being held under subsection (2) must be processed and determined in accordance with this Act.

(8) However, the application may be processed and determined before the expiry of the 3-month period referred to in subsection (7) if the existing permit holder

notifies the consent authority in writing that the holder does not propose to make an application under section 165ZH(1)(c).

Section 165ZI: inserted, on 1 January 2005, by section 20 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 165ZI(1): amended, on 1 October 2011, by section 53(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZI(3): amended, on 1 October 2011, by section 53(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZI(4)(b): amended, on 1 October 2011, by section 53(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZI(5): amended, on 1 October 2011, by section 53(4)(a) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZI(5): amended, on 1 October 2011, by section 53(4)(b) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZI(8): amended, on 1 October 2011, by section 53(5) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZJ Additional criteria for considering applications for permits for space already used for aquaculture activities

(1AA) When considering an application under section 165ZH that relates to the same aquaculture activity, a consent authority must consider all relevant information available in relation to the existing coastal permit, including any available monitoring data.

(1) When considering an application to which section 165ZH or section 165ZI(7) or (8) applies, a consent authority must not only consider the relevant matters under this Act, but also consider the applicant's conduct in relation to—

(a) compliance with the relevant regional coastal plan; and

(b) compliance with resource consent conditions for current or previous aquaculture activities undertaken by the applicant.

(c) *[Repealed]*

(2) In making an assessment under subsection (1)(a) and (b), the council must, in relation to any successful enforcement action under Part 12, consider—

(a) the number of any breaches that have occurred; and

(b) the seriousness of the breach; and

(c) how recently the breach occurred; and

(d) the subsequent behaviour of the applicant after enforcement action.

Section 165ZJ: inserted, on 1 January 2005, by section 20 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 165ZJ(1AA): inserted, on 1 October 2011, by section 54(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZJ(1): amended, on 1 October 2011, by section 54(2) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZJ(1)(c): repealed, on 1 October 2011, by section 54(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

## Subpart 4—Plan change requests and concurrent applications for coastal permits in relation to aquaculture activities

Subpart 4: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZK Application

This subpart applies only in relation to a rule in a regional coastal plan that,—

(a) at the commencement of section 55 of the Resource Management Amendment Act (No 2) 2011, provided that an aquaculture activity is a prohibited activity, whether in all or part, of the common marine and coastal area that the plan applies to; and

(b) is still operative when a plan change request is made.

Section 165ZK: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZL Interpretation

In this subpart, unless the context otherwise requires,—

**concurrent application** means an application made under section 165ZN that is made in conjunction with a plan change request

**plan change request** means a plan change request—

(a) made under clause 21 of Schedule 1, in relation to a rule referred to in section 165ZK,—

(i) to provide for aquaculture activities; and

(ii) to make any related changes; and

(b) made in conjunction with, or in contemplation of, a concurrent application.

Section 165ZL: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZM Other provisions of Act apply subject to this subpart

(1) The provisions of this Act relating to consent applications and plan change requests apply to concurrent applications and plan change requests under this subpart subject to the provisions of this subpart.

(2) Subsections (3) to (4) do not limit subsection (1).

(3) Section 36AA and any regulations made under section 360(1)(hj) do not apply in relation to a concurrent application.

(4) The following provisions of Part 6 do not apply to a concurrent application: sections 88A to 88E, 91A, 95 to 95G, 96(7), 97, 99 to 103A, 115, and 121(1)(c).

Section 165ZM: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZM(4): amended, on 3 March 2015, by section 107 of the Resource Management Amendment Act 2013 (2013 No 63).

### 165ZN Application for coastal permit to undertake aquaculture activities

(1) An application for a coastal permit to undertake an aquaculture activity in the common marine and coastal area that otherwise could not be made because of section 87A(6) may be made if—

(a) the person making the application also makes a plan change request under clause 21 of Schedule 1; and

(b) the application for the coastal permit is made—

(i) at the same time as the plan change request is made; or

(ii) if the plan change request is lodged with a regional council, within 20 working days after receiving the regional council's notification of its decision under clause 25(5) of Schedule 1; and

(c) the plan change request is to change—

(i) the regional coastal plan to make the aquaculture activity in the common marine and coastal area a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity; and

(ii) related matters (if any) in the regional coastal plan; and

(d) the application for the coastal permit would be consistent with the plan change if the plan change request were accepted and made.

(2) For the purposes of subsection (1)(d), section 165ZW(1) is to be disregarded.

Section 165ZN: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZO Identifying plan change requests and concurrent applications

(1) A concurrent application must identify the plan change request it relates to.

(2) A plan change request must—

(a) identify the concurrent application it relates to, if the plan change request and concurrent application are made at the same time; or

(b) specify that it is intended to lodge a concurrent application subsequently, if the plan change request is accepted.

Section 165ZO: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZP Incomplete concurrent application

(1) This section applies if a concurrent application is returned, under section 88(3A), as incomplete.

(2) The regional council is not required to take any further action on the plan change request unless the application is lodged again within the time specified in subsection (3).

(3) If the application is not lodged again within 20 working days after the date on which the applicant receives the returned application, the application and the plan change request lapse.

Section 165ZP: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZP(1): amended, on 3 March 2015, by section 108 of the Resource Management Amendment Act 2013 (2013 No 63).

### 165ZQ Additional consents

(1) If the regional council makes a determination under section 91(1), it must do so within 20 working days after—

(a) the expiry of the 10 working days specified in section 88(3), if the application is not returned as incomplete:

(b) the day after the application is lodged again under section 165ZP(3), if the application was returned as incomplete under section 88(3A).

(2) If the regional council determines that 1 or more further consents will be required, the regional council is not required to take any further action on the plan change request until the applications for the further consents have been lodged and accepted as complete under section 88(3).

Section 165ZQ: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 165ZQ(1)(a): amended, on 3 March 2015, by section 109(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 165ZQ(1)(b): amended, on 3 March 2015, by section 109(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 165ZR Concurrent application to be declined or treated as withdrawn if plan change request declined or withdrawn

(1) If, under clause 25(4) of Schedule 1, a regional council rejects a plan change request, then the concurrent application lapses.

(2) If, under clause 25(2)(b) of Schedule 1, a regional council accepts a plan change request in part so that the aquaculture activity that the concurrent application relates to remains a prohibited activity, then the regional council must decline the concurrent application as a result of the decision made under clause 25(4) of Schedule 1.

(3) If a plan change request is withdrawn or deemed to be withdrawn under clause 28 of Schedule 1, the concurrent application that relates to the plan change request is to be treated as having been withdrawn.

Section 165ZR: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZS Consideration of plan change request

(1) The regional council—

(a) may not adopt a plan change request under clause 25(2)(a) of Schedule 1; but

(b) may accept a plan change request under clause 25(2)(b) of Schedule 1.

(2) If the regional council accepts a plan change request, the person making the plan change request may, within 20 working days after being notified of the council's decision under clause 25(5) of Schedule 1,—

(a) if a concurrent application has been lodged with the plan change request and the plan change request has been modified under clause 24 of Schedule 1,—

(i) amend the concurrent application; or

(ii) withdraw the concurrent application and lodge a replacement concurrent application:

(b) if a concurrent application has not been lodged with the plan change request, lodge a concurrent application.

Section 165ZS: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZT Notification of accepted plan change request

(1) For the purposes of publicly notifying an accepted plan change request and its concurrent application under clause 26(b)(i) of Schedule 1, the period of 4 months specified in that subparagraph begins on the day as determined in accordance with subsection (2), (3), or (4), as the case may require.

(2) If a concurrent application has been lodged, the period begins on the day on which the regional council receives written confirmation from the applicant that the applications will not be amended or withdrawn.

(3) If a concurrent application has been lodged but has been amended, or withdrawn and a replacement application lodged, the period begins on the day on which the regional council confirms to the applicant that the application as amended or the replacement application is complete and that no other resource consents are required.

(4) If a concurrent application has not been lodged but is lodged after the plan change request is accepted by the regional council, the period begins on the day on which the regional council confirms to the applicant that the application is complete and that no other resource consents are required.

(5) Notification of a plan change request under subsection (1) must also include notification of the concurrent application.

(6) For the purposes of subsection (5), clause 5 of Schedule 1 applies with all necessary modifications and as if references to a plan or regional coastal plan were references to a plan change request and its related concurrent application

and as if the reference to a proposed change in clause 5(3)(b) of that schedule included a reference to its concurrent application.

Section 165ZT: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZU Submissions on plan change request and concurrent application

(1) The regional council must, in addition to preparing a summary of submissions on the plan change request, prepare a summary of submissions on the concurrent application.

(2) Clause 7 of Schedule 1 accordingly applies also to the summary of submissions on the concurrent application.

(3) However, no person may make further submissions under clause 8 of Schedule 1 on a concurrent application.

Section 165ZU: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZV Hearing of submissions

(1) The regional council must hear, under clause 8B of Schedule 1, any submissions on a plan change request and its concurrent application together.

(2) For the purposes of clause 8C of Schedule 1, a hearing is not required if, in addition, no person indicates they wish to be heard, or the request to be heard is withdrawn, in relation to the concurrent application.

Section 165ZV: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZW Type of activity in relation to concurrent activities

(1) After a plan change request has been accepted and publicly notified, the regional council must process the concurrent application that the plan change request relates to on the basis that the activities for which the application is made are non-complying activities.

(2) The concurrent application must be considered and determined on the basis that the activities for which the application is made are controlled activities, restricted discretionary activities, discretionary activities, or non-complying activities in accordance with the regional council's decision on the plan change request that the concurrent application relates to.

Section 165ZW: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZX Consideration of plan change request and concurrent application

(1) A regional council considering a plan change request and its concurrent application made under subpart 4 of Part 7A must,—

(a) firstly, determine matters in relation to the plan change request; and

(b) secondly, determine matters in relation to the concurrent application, based on its determination of matters in relation to the plan change request.

(2) A regional council must decline a concurrent application if, as a result of the council's determination on the plan change request, the aquaculture activity that the concurrent application relates to remains a prohibited activity.

Section 165ZX: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZY Regional council's decision on concurrent application

The regional council must make and publicly notify its decision on the concurrent application not later than the close of the 20th working day after publicly notifying its decision on the plan change request in accordance with clause 10(4) of Schedule 1.

Section 165ZY: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZZ Appeals

(1) An appeal against a decision relating to the plan change request or the concurrent application or both must be lodged within 20 working days after the day on which the regional council publicly notifies its decision on the concurrent application.

(2) If appeals are lodged against both the decision on the plan change request and the concurrent application, the appeals must be heard together.

Section 165ZZ: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 165ZZA Grant of coastal permit

(1) If the regional council grants a concurrent application and issues a coastal permit, the commencement of the coastal permit under section 116A is subject to the Minister of Conservation approving the plan change.

(2) If the Minister of Conservation declines to approve the plan change, the regional council must cancel the coastal permit.

Section 165ZZA: inserted, on 1 October 2011, by section 55 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

# Part 8
# Designations and heritage orders

*Designations*

### 166 Definitions

In this Act—

**designation** means a provision made in a district plan to give effect to a requirement made by a requiring authority under section 168 or section 168A or clause 4 of Schedule 1

**eligible infrastructure** has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020

**network utility operator** means a person who—

(a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or

(b) operates or proposes to operate a network for the purpose of—

(i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or

(ii) radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989; or

(c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or

(d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or

(e) undertakes or proposes to undertake a drainage or sewerage system; or

(f) constructs, operates, or proposes to construct or operate, a road or railway line; or

(g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or

(h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or

(ha) is a responsible SPV that is constructing or proposing to construct eligible infrastructure; or

(i) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—

and the words **network utility operation** have a corresponding meaning

**public work** includes work that relates to the construction of eligible infrastructure

**requiring authority** means—

(a) a Minister of the Crown; or

(b) a local authority; or

(c) a network utility operator approved as a requiring authority under section 167

**responsible infrastructure authority** has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

**responsible SPV** has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

**SPV** means a responsible SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure.

(2) In this Part, work **relates to the construction of eligible infrastructure** if the work—

(a) involves such construction for which an SPV has financial responsibility; or

(b) is work—

(i) that is required to facilitate the future construction of eligible infrastructure; and

(ii) for which the local authority or the territorial authority giving notice of its requirement for a designation (under section 168 or 168A) has financial responsibility.

Section 166 heading: replaced, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(1) **designation**: amended, on 7 July 1993, by section 83(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 166(1) **eligible infrastructure**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(1) **network utility operator** paragraph (a): amended, on 1 October 2008, by section 17 of the Energy (Fuels, Levies, and References) Amendment Act 2008 (2008 No 60).

Section 166(1) **network utility operator** paragraph (b): replaced, on 20 December 2001, by section 158 of the Telecommunications Act 2001 (2001 No 103).

Section 166(1) **network utility operator** paragraph (c): replaced, on 7 July 1993, by section 83(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 166(1) **network utility operator** paragraph (ha): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(1) **public work**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(1) **responsible infrastructure authority**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(1) **responsible SPV**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(1) **SPV**: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 166(2): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

### 167 Application to become requiring authority

(1) A network utility operator may apply to the Minister in the prescribed form for approval as a requiring authority.

(2) The Minister may make such inquiry into the application and request such information as he or she considers necessary.

(3) The Minister may, by notice in the *Gazette*, approve an applicant under subsection (1) as a requiring authority for the purposes of—

(a) a particular project or work; or

(b) a particular network utility operation—

on such terms and conditions (including provision of a bond) as are specified in the notice.

(4) The Minister shall not issue a notice under subsection (3) unless he or she is satisfied that—

(a) the approval of the applicant as a requiring authority is appropriate for the purposes of carrying on the project, work, or network utility operation; and

(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority under this Act and will give proper regard to the interests of those affected and to the interests of the environment.

(4A) If the applicant is a network utility operator described in paragraph (ha) of the definition of that term in section 166(1), the applicant need not have financial responsibility for the construction work for the purpose of the Minister being satisfied of the matters in subsection (4)(b).

(5) Where the Minister is satisfied that—

(a) a requiring authority is unlikely to undertake or complete a project, work, or network utility operation for which approval as a requiring authority was given; or

(b) a requiring authority is unlikely to satisfactorily carry out any responsibility as a requiring authority under this Act; or

(c) a requiring authority is no longer a network utility operator—

the Minister shall, by notice in the *Gazette*, revoke the relevant approval given under subsection (3).

(6) Upon the revocation of an approval under subsection (5), all functions, powers, and duties of the former requiring authority under this Act in relation to any designation, or any requirement for a designation, shall be deemed to be transferred to the Minister under section 180.

Section 167: replaced, on 7 July 1993, by section 84 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 167(4A): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

### 168 Notice of requirement to territorial authority

(1) A Minister of the Crown who, or a local authority which, has financial responsibility for a public work, may at any time give notice in the prescribed form to a territorial authority of its requirement for a designation—

(a) for a public work; or

(b) in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.

(2) A requiring authority for the purposes approved under section 167 may at any time give notice in the prescribed form to a territorial authority of its requirement for a designation—

(a) for a project or work; or

(b) in respect of any land, water, subsoil, or airspace where a restriction is reasonably necessary for the safe or efficient functioning or operation of such a project or work.

(3) In addition, a local authority may at any time give notice in the prescribed form to a territorial authority of its requirement for a designation for a work that relates to the construction of eligible infrastructure for which the local authority is a responsible infrastructure authority.

(3) *[Repealed]*

(4) A requiring authority may at any time withdraw a requirement by giving notice in writing to the territorial authority affected.

(5) Upon receipt of notification under subsection (4), the territorial authority shall—

(a) publicly notify the withdrawal; and

(b) notify all persons upon whom the requirement has been served.

Section 168(1): amended, on 1 August 2003, by section 60(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 168(2): amended, on 1 August 2003, by section 60(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 168(2): amended, on 7 July 1993, by section 85(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 168(2)(a): replaced, on 7 July 1993, by section 85(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 168(3): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 168(3): repealed, on 1 August 2003, by section 60(3) of the Resource Management Amendment Act 2003 (2003 No 23).

### 168A Notice of requirement by territorial authority

(1) This section applies if a territorial authority decides to issue a notice of requirement for a designation—

(a) for a public work within its district and for which it has financial responsibility; or

(ab) for work within its district that relates to the construction of eligible infrastructure for which the territorial authority is a responsible infrastructure authority; or

(b) in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.

(1A) The territorial authority must decide whether to notify the notice of requirement under—

(a) subsection (1AA); or

(b) sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF, which apply with all necessary modifications and as if—

(i) a reference to an application or notice were a reference to the notice of requirement; and

(ii) a reference to an applicant, the Minister, or the EPA were a reference to the territorial authority; and

(iii) a reference to an activity were a reference to the designation.

(1AA) Despite section 149ZCB(1), a territorial authority must publicly notify the notice if—

(a) it has not already decided whether to give public or limited notification of the notice; and

(b) either—

(i) further information is requested from the territorial authority under section 92(1), but the territorial authority—

(A) does not provide the information before the deadline concerned; or

(B) refuses to provide the information; or

(ii) the territorial authority is notified under section 92(2)(b) in relation to the commissioning of a report, but the territorial authority—

(A) does not respond before the deadline concerned; or

(B) refuses to agree to the commissioning of the report.

(1AB) Subsection (1AA) applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

(1B) Section 168 applies to the notice of requirement with all necessary modifications.

(2) Sections 96, 97, and 99 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant or a consent authority were a reference to the territorial authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to an activity were a reference to the designation.

(2AA) However, section 101(2) does not apply to the notice of requirement, and the date for the commencement of the hearing is as follows:

(a) if the notice of requirement was not notified, the date must be within 25 working days after the date the notice of requirement was given by the territorial authority:

(b) if the notice of requirement was notified and the territorial authority gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the notice of requirement:

(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the notice of requirement.

(2A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.

(3) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—

(a) any relevant provisions of—

(i) a national policy statement:

(ii) a New Zealand coastal policy statement:

(iii) a regional policy statement or proposed regional policy statement:

(iv) a plan or proposed plan; and

(b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—

(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or

(ii) it is likely that the work will have a significant adverse effect on the environment; and

(c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

(d) any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.

(3A) The effects to be considered under subsection (3) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority.

(4) The territorial authority may decide to—

(a) confirm the requirement:

(b) modify the requirement:

(c) impose conditions:

(d) withdraw the requirement.

(5) Sections 173, 174, and 175 apply, with all necessary modifications, in respect of a decision made under subsection (4).

Section 168A: inserted, on 7 July 1993, by section 86 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 168A(1): replaced, on 1 October 2009, by section 102 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 168A(1)(ab): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

Section 168A(1A): replaced, on 18 October 2017, by section 157(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 168A(1AA): inserted, on 18 October 2017, by section 157(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 168A(1AB): inserted, on 18 October 2017, by section 157(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 168A(1B): inserted, on 1 October 2009, by section 102 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 168A(2): replaced, on 18 October 2017, by section 157(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 168A(2AA): inserted, on 3 March 2015, by section 110 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 168A(2A): inserted, on 1 October 2009, by section 102 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 168A(3): replaced, on 1 August 2003, by section 61(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 168A(3A): inserted, on 18 October 2017, by section 157(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 168A(4): replaced, on 1 August 2003, by section 61(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 168A(5): inserted, on 1 August 2003, by section 61(3) of the Resource Management Amendment Act 2003 (2003 No 23).

### 169 Further information, notification, submissions, and hearing for notice of requirement to territorial authority

(1) If a territorial authority is given notice of a requirement under section 168, the territorial authority must, within 10 working days, decide whether to notify the notice under—

(a) subsection (1A); or

(b) sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF, which apply with all necessary modifications and as if—

(i) a reference to an application or notice were a reference to the notice of requirement; and

(ii) a reference to an applicant were a reference to the requiring authority; and

(iii) a reference to the Minister or the EPA were a reference to the territorial authority; and

(iv) a reference to an activity were a reference to the designation.

(1A) Despite section 149ZCB(1), a territorial authority must publicly notify the notice if—

(a) it has not already decided whether to give public or limited notification of the notice; and

(b) either—

(i) the territorial authority requests further information from the requiring authority under section 92(1), but the requiring authority—

(A) does not provide the information before the deadline concerned; or

(B) refuses to provide the information; or

(ii) the territorial authority notifies the requiring authority under section 92(2)(b) that it wants to commission a report, but the requiring authority—

(A) does not respond before the deadline concerned; or

(B) refuses to agree to the commissioning of the report.

(1B) Subsection (1A) applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

(2) Unless the territorial authority applies section 170, sections 92 to 92B and 96 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant were a reference to the requiring authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to a consent authority were a reference to the territorial authority; and

(e) a reference to an activity were a reference to the designation; and

(f) a reference to a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 171.

(3) However, section 101(2) does not apply to the notice of requirement, and the date for the commencement of the hearing is as follows:

(a) if the notice of requirement was not notified, the date must be within 25 working days after the date the notice of requirement was given to the territorial authority:

(b) if the notice of requirement was notified and the territorial authority gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the notice of requirement:

(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the notice of requirement.

Section 169: replaced, on 1 October 2009, by section 103 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 169(1): replaced, on 18 October 2017, by section 158(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 169(1A): inserted, on 18 October 2017, by section 158(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 169(1B): inserted, on 18 October 2017, by section 158(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 169(2): replaced, on 18 October 2017, by section 158(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 169(3): inserted, on 3 March 2015, by section 111(3) of the Resource Management Amendment Act 2013 (2013 No 63).

### 170 Discretion to include requirement in proposed plan

(1) If a territorial authority is given notice of a requirement under section 168, and proposes to notify a proposed plan under clause 5 of Schedule 1 within 40 working days of receipt of that requirement, the territorial authority may, with the consent of the requiring authority, include the requirement in its proposed plan instead of complying with section 169.

(2) To obtain consent for the purposes of subsection (1) or (8), the territorial authority must—

(a) notify the requiring authority as to which planning process it intends to use under Schedule 1; and

(b) seek the consent of the requiring authority to use that planning process for considering the requirement.

(c) *[Repealed]*

*Where proposal is to use collaborative planning process*

*[Repealed]*

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

(6) *[Repealed]*

*Where proposal is to use streamlined planning process*

(7) Subsection (8) applies if a territorial authority—

(a) receives a notice of requirement under section 168; and

(b) within 40 working days of receiving that notice of requirement, proposes to apply to the responsible Minister under section 80C for a direction to use a streamlined planning process.

(8) If this subsection applies, the territorial authority may, if the requiring authority consents, include in its application to the responsible Minister the requirement as well as the matters that will be the subject of the proposed planning instrument, instead of complying with section 169.

Section 170(1): amended, on 19 April 2017, by section 97(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 170(2): inserted, on 19 April 2017, by section 97(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 170(2): amended, on 1 July 2020, by section 57(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(2)(b): replaced, on 1 July 2020, by section 57(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(2)(c): repealed, on 1 July 2020, by section 57(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(3) heading: repealed, on 1 July 2020, by section 57(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(3): repealed, on 1 July 2020, by section 57(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(4): repealed, on 1 July 2020, by section 57(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(5): repealed, on 1 July 2020, by section 57(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(6): repealed, on 1 July 2020, by section 57(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 170(7): inserted, on 19 April 2017, by section 97(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 170(8): inserted, on 19 April 2017, by section 97(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 171 Recommendation by territorial authority

(1A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.

(1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—

(a) any relevant provisions of—

(i) a national policy statement:

(ii) a New Zealand coastal policy statement:

(iii) a regional policy statement or proposed regional policy statement:

(iv) a plan or proposed plan; and

(b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—

(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or

(ii) it is likely that the work will have a significant adverse effect on the environment; and

(c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

(d) any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.

(1B) The effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.

(2) The territorial authority may recommend to the requiring authority that it—

(a) confirm the requirement:

(b) modify the requirement:

(c) impose conditions:

(d) withdraw the requirement.

(2A) However, if the requiring authority is the Minister of Education or the Minister of Defence, the territorial authority may not recommend imposing a condition requiring a financial contribution (as defined in section 108(9)).

(3) The territorial authority must give reasons for its recommendation under subsection (2).

Section 171: replaced, on 1 August 2003, by section 63 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 171(1A): inserted, on 1 October 2009, by section 104 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 171(1B): inserted, on 18 October 2017, by section 159 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 171(2A): inserted, on 1 July 2020, by section 58 of the Resource Management Amendment Act 2020 (2020 No 30).

### 172 Decision of requiring authority

(1) Within 30 working days of the day on which it receives a territorial authority's recommendation under section 171, a requiring authority shall advise the territorial authority whether the requiring authority accepts or rejects the recommendation in whole or in part.

(2) A requiring authority may modify a requirement if, and only if, that modification is recommended by the territorial authority or is not inconsistent with the requirement as notified.

(3) Where a requiring authority rejects the recommendation in whole or in part, or modifies the requirement, the authority shall give reasons for its decision.

### 173 Notification of decision on designation

(1) A territorial authority must ensure that, within 15 working days after a decision is made by a requiring authority under section 172, a notice of decision and a statement of the time within which an appeal against the decision may be lodged is served on—

(a) persons who made a submission; and

(b) land owners and occupiers directly affected by the decision.

(2) If the territorial authority gives a notice summarising a decision, it must—

(a) make a copy of the decision available (whether physically or by electronic means) at all its offices and all public libraries in the district; and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

Section 173: replaced, on 1 August 2003, by section 64 of the Resource Management Amendment Act 2003 (2003 No 23).

### 174 Appeals

(1) Any 1 or more of the following persons may appeal to the Environment Court in accordance with this section against the whole or any part of a decision of a requiring authority under section 172:

(a) the territorial authority concerned:

(b) any person who made a submission on the requirement.

(2) Notice of an appeal under this section shall—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required to be stated by regulations; and

(c) be lodged with the Environment Court and be served on the requiring authority whose decision is appealed against, within 15 working days of the date on which notice of the decision is given in accordance with section 173.

(3) The appellant shall ensure that a copy of the notice of appeal is served on every person referred to in subsection (1) (other than the appellant), within 5 working days after the notice is lodged with the court.

(4) In determining an appeal, the Environment Court must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority, and may—

(a) cancel a requirement; or

(b) confirm a requirement; or

(c) confirm a requirement, but modify it or impose conditions on it as the court thinks fit.

(5) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under subsection (4)(c) requiring a financial contribution (as defined in section 108(9)).

Section 174(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 174(2)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 174(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 174(4): replaced, on 1 October 2009, by section 105 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 174(5): inserted, on 1 July 2020, by section 59 of the Resource Management Amendment Act 2020 (2020 No 30).

### 175 Designation to be provided for in district plan

(1) Subsection (2) applies to a territorial authority if—

(a) a requiring authority makes a decision under section 172 and one of the following applies:

(i) no appeal is lodged against the requiring authority's decision within the time permitted by section 174(2)(c); or

(ii) an appeal is lodged against the requiring authority's decision under section 174 but is withdrawn or dismissed; or

(iii) an appeal is lodged against the requiring authority's decision and the Environment Court confirms or modifies the requirement; or

(b) a board of inquiry decides to confirm a requirement with or without modifications under section 149R; or

(c) the Environment Court decides to confirm a requirement with or without modifications under section 149U, 198E, or 198K.

(2) The territorial authority must, as soon as practicable and without using Schedule 1,—

(a) include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and

(b) state in its district plan and in any proposed district plan the name of the requiring authority that has the benefit of the designation.

Section 175: replaced, on 1 October 2009, by section 106 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 176 Effect of designation

(1) If a designation is included in a district plan, then—

(a) section 9(3) does not apply to a public work or project or work undertaken by a requiring authority under the designation; and

(b) no person may, without the prior written consent of that requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including—

(i) undertaking any use of the land; and

(ii) subdividing the land; and

(iii) changing the character, intensity, or scale of the use of the land.

(2) The provisions of a district plan or proposed district plan shall apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose.

(3) This section is subject to section 177.

Section 176(1): replaced, on 1 August 2003, by section 65 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 176(1)(a): amended, on 1 October 2009, by section 107(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 176(1)(b)(i): amended, on 1 October 2009, by section 107(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 176(2): amended, on 17 December 1997, by section 37(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 176(2): amended, on 7 July 1993, by section 90(2) of the Resource Management Amendment Act 1993 (1993 No 65).

## 176A Outline plan

(1) Subject to subsection (2), an outline plan of the public work, project, or work to be constructed on designated land must be submitted by the requiring authority to the territorial authority to allow the territorial authority to request changes before construction is commenced.

(2) An outline plan need not be submitted to the territorial authority if—

- (a) the proposed public work, project, or work has been otherwise approved under this Act; or
- (b) the details of the proposed public work, project, or work, as referred to in subsection (3), are incorporated into the designation; or
- (c) the territorial authority waives the requirement for an outline plan.

(3) An outline plan must show—

- (a) the height, shape, and bulk of the public work, project, or work; and
- (b) the location on the site of the public work, project, or work; and
- (c) the likely finished contour of the site; and
- (d) the vehicular access, circulation, and the provision for parking; and
- (e) the landscaping proposed; and
- (f) any other matters to avoid, remedy, or mitigate any adverse effects on the environment.

(4) Within 20 working days after receiving the outline plan, the territorial authority may request the requiring authority to make changes to the outline plan.

(5) If the requiring authority decides not to make the changes requested under subsection (4), the territorial authority may, within 15 working days after being notified of the requiring authority's decision, appeal against the decision to the Environment Court.

(6) In determining any such appeal, the Environment Court must consider whether the changes requested by the territorial authority will give effect to the purpose of this Act.

(7) This section applies, with all necessary modifications, to public works, projects, or works to be constructed on designated land by a territorial authority.

Section 176A: inserted, on 17 December 1997, by section 38 of the Resource Management Amendment Act 1997 (1997 No 104).

### 177 Land subject to existing designation or heritage order

(1) Subject to sections 9(2) and 11 to 15, where a designation is included in a district plan, and the land that is the subject of the designation is already the subject of an earlier designation or heritage order,—

(a) the requiring authority responsible for the later designation may do anything that is in accordance with that designation only if that authority has first obtained the written consent of the authority responsible for the earlier designation or order; and

(b) the authority responsible for the earlier designation or order may, notwithstanding section 176(1)(b) and without obtaining the prior written consent of the later requiring authority, do anything that is in accordance with the earlier designation or order.

(2) The authority responsible for the earlier designation or order may withhold its consent under subsection (1) only if that authority is satisfied—

(a) that, in the case of an earlier designation, the thing to be done would prevent or hinder the public work or project or work to which the designation relates; or

(b) that in the case of an earlier heritage order, the thing to be done would wholly or partly nullify the effect of the order.

Section 177(1): amended, on 1 October 2009, by section 108 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 177(1): amended, on 7 July 1993, by section 91(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 177(1): amended, on 7 July 1993, by section 91(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 177(1)(a): amended, on 7 July 1993, by section 91(c) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 177(1)(b): amended, on 7 July 1993, by section 91(c) of the Resource Management Amendment Act 1993 (1993 No 65).

### 178 Interim effect of requirements for designations

(1) This section applies when—

(a) a requiring authority gives notice of a requirement for a designation to the EPA under section 145:

(b) a requiring authority gives notice of a requirement for a designation to a territorial authority under section 168:

(c) a territorial authority decides to issue a notice of requirement for a designation within its own district under section 168A:

(d) a requiring authority gives notice of a requirement for a modified designation under clause 4 of Schedule 1:

(e) a territorial authority decides to include a requirement for a designation in its proposed district plan under clause 4 of Schedule 1.

(2) In the period that starts as described in subsection (3) and ends as described in subsection (4), no person may do anything that would prevent or hinder the public work, project, or work to which the designation relates unless the person has the prior written consent of the requiring authority.

(3) The period starts,—

(a) for the purposes of subsection (1)(a), on the day on which the requiring authority gives notice under section 145:

(b) for the purposes of subsection (1)(b), on the day on which the requiring authority gives notice of the requirement under section 168:

(c) for the purposes of subsection (1)(c), on the day on which the territorial authority decides whether to notify the notice of requirement under section 168A:

(d) for the purposes of subsection (1)(d), on the day on which the requiring authority gives notice of the requirement for the modified designation under clause 4 of Schedule 1:

(e) for the purposes of subsection (1)(e), on the day on which the territorial authority decides to include a requirement for a designation in its proposed district plan under clause 4 of Schedule 1.

(4) The period ends on the earliest of the following days:

(a) the day on which the requirement is withdrawn:

(b) the day on which the requirement is cancelled:

(c) the day on which the designation is included in the district plan.

(5) A person who contravenes subsection (2) does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the requirement.

(6) This section does not prevent an authority responsible for an earlier designation or heritage order from doing anything that is in accordance with the earlier designation or order.

Section 178: replaced, on 1 October 2009, by section 109 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 179 Appeals relating to sections 176 to 178

(1) Any person who has been refused consent by a requiring authority under section 176(1)(b), 177(2), or 178(2), or who has been granted such consent subject to conditions, may appeal to the Environment Court against the refusal or the conditions.

(2) Notice of an appeal under this section shall—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required to be stated by regulations; and

(c) be lodged with the Environment Court and served on the requiring authority whose decision is appealed against within 15 working days of receiving the requiring authority's decision under section 176(1)(b), 177(2), or 178(2).

(3) In considering an appeal under this section, the court shall have regard to—

(a) whether the decision appealed against has caused or is likely to cause serious hardship to the appellant; and

(b) whether the decision appealed against would render the land which is subject to the designation or requirement incapable of reasonable use; and

(c) the extent to which the decision may be modified without wholly or partly nullifying the effect of the requirement or designation—

and may confirm or reverse the decision appealed against or modify the decision in such manner as the court thinks fit.

Section 179(1): amended, on 1 October 2009, by section 110(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 179(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 179(2)(c): amended, on 1 October 2009, by section 110(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 179(2)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 179(3): replaced, on 7 July 1993, by section 93 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 179(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## 180 Transfer of rights and responsibilities for designations

(1) Where the financial responsibility for a project or work or network utility operation is transferred from one requiring authority to another, responsibility for any relevant designation shall also be transferred.

(2) The requiring authority which transfers responsibility for the designation shall advise the Minister for the Environment and the relevant territorial authority, and, for the purposes of section 175(2)(b), the transfer shall, without using the process in Schedule 1, be noted in the district plan.

Section 180: replaced, on 7 July 1993, by section 94 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 180(2): amended, on 1 October 2009, by section 111 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 180(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 180A When financial responsibility is transferred to responsible SPV

(1) This section applies if—

(a) a local authority or territorial authority holds a designation for work that relates to the construction of eligible infrastructure within the meaning of paragraph (b) of the definition of relates to the construction of eligible infrastructure in section 166(2); and

(b) a responsible SPV has taken over, or proposes to take over, the construction; and

(c) a designation continues to be required for the construction; and

(d) the responsible SPV is not a requiring authority; and

(e) the authority is the responsible infrastructure authority in relation to the construction.

(2) The designation continues to apply to the construction work.

(3) The responsible infrastructure authority may, by written notice, delegate to the responsible SPV those functions, duties, and powers in relation to the designation that relate to the construction of eligible infrastructure.

(4) The responsible SPV must perform those delegated functions and duties and exercise those delegated powers in accordance with any conditions attached to the designation.

(5) A delegation does not affect the performance or exercise of any function, duty, or power by the responsible infrastructure authority.

Section 180A: inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

### 181 Alteration of designation

(1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.

(2) Subject to subsection (3), sections 168 to 179 and 198AA to 198AD shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.

(3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if—

(a) the alteration—

(i) involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or

(ii) involves only minor changes or adjustments to the boundaries of the designation or requirement; and

(b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and

(c) both the territorial authority and the requiring authority agree with the alteration—

and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.

(4) This section shall apply, with all necessary modifications, to a requirement by a territorial authority to alter its own designation or requirement within its own district.

Section 181(2): amended, on 3 March 2015, by section 112 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 181(3): amended, on 3 March 2015, by section 112 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 181(3): amended, on 1 August 2003, by section 66(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 181(3): amended, on 1 August 2003, by section 66(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 181(3)(a)(ii): amended, on 1 August 2003, by section 66(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 181(4): inserted, on 7 July 1993, by section 95 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 181(4): amended, on 1 August 2003, by section 66(4) of the Resource Management Amendment Act 2003 (2003 No 23).

### 182 Removal of designation

(1) If a requiring authority no longer wants a designation or part of a designation, it shall give notice in the prescribed form to—

(a) the territorial authority concerned; and

(b) every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and

(c) every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.

(2) As soon as reasonably practicable after receiving a notice under subsection (1), the territorial authority shall, without using the process in Schedule 1, amend its district plan accordingly.

(3) The provisions of Schedule 1 shall not apply to any removal of a designation or part of a designation under this section.

(4) This section shall apply, with all necessary modifications, to a notice by a territorial authority to withdraw its own designation or part of a designation within its own district.

(5) Notwithstanding subsections (2) to (4), where a territorial authority considers the effect of the removal of part of a designation on the remaining designation

is more than minor, it may, within 20 working days of receipt of the notice under subsection (1), decline to remove that part of the designation.

(6) A requiring authority may object, under section 357, to any decision to decline removal of part of a designation under subsection (5).

Section 182: replaced, on 7 July 1993, by section 96 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 182(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 183 Review of designation which has not lapsed

*[Repealed]*

Section 183: repealed, on 7 July 1993, by section 97 of the Resource Management Amendment Act 1993 (1993 No 65).

### 184 Lapsing of designations which have not been given effect to

(1) A designation lapses on the expiry of 5 years after the date on which it is included in the district plan unless—

(a) it is given effect to before the end of that period; or

(b) the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection; or

(c) the designation specified a different period when incorporated in the plan.

(2) Where paragraph (b) or paragraph (c) of subsection (1) applies in respect of a designation, the designation shall lapse on the expiry of the period referred to in that paragraph unless—

(a) it is given effect to before the end of that period; or

(b) the territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection.

(3) A requiring authority may object, under section 357, to a decision not to fix a longer period for the purposes of subsection (1).

Section 184(1): amended, on 7 July 1993, by section 98 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 184(3): inserted, on 10 August 2005, by section 90 of the Resource Management Amendment Act 2005 (2005 No 87).

### 184A Lapsing of designations of territorial authority in its own district

(1) Section 184 shall not apply to a designation of a territorial authority in its own district.

(2) A designation of a territorial authority in its own district lapses on the expiry of 5 years after the date on which it is included in the district plan unless—

(a) it is given effect to before the end of that period; or

(b) within 3 months before the expiry of that period, the territorial authority resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period for the purposes of this subsection; or

(c) the designation specified a different period when incorporated in the plan.

(3) Where paragraph (b) or paragraph (c) of subsection (2) applies in respect of a designation, the designation shall lapse on the expiry of the period referred to in whichever of those paragraphs is applicable, unless—

(a) it is given effect to before the end of that period; or

(b) within 3 months before the expiry of that period, the territorial authority resolves that it has made, and is continuing to make, substantial progress or effort towards giving effect to the designation and fixes a longer period for the purpose of this subsection.

Section 184A: inserted, on 7 July 1993, by section 99 of the Resource Management Amendment Act 1993 (1993 No 65).

### 185 Environment Court may order taking of land

(1) An owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a designation or requirement under this Part may apply at any time to the Environment Court for an order obliging the requiring authority responsible for the designation or requirement to acquire or lease all or part of the owner's estate or interest in the land under the Public Works Act 1981.

(2) An application under subsection (1) shall be in the prescribed form and a copy of the application shall be served upon the requiring authority and the relevant territorial authority by the applicant.

(3) The Environment Court may make an order applied for under subsection (1) if it is satisfied that—

(a) the owner has tried but been unable to enter into an agreement for the sale of the estate or interest in the land subject to the designation or requirement at a price not less than the market value that the land would have had if it had not been subject to the designation or requirement; and

(b) either—

(i) the designation or requirement prevents reasonable use of the owner's estate or interest in the land; or

(ii) the applicant was the owner, or the spouse, civil union partner, or de facto partner of the owner, of the estate or interest in the land when the designation or requirement was created.

(4) Before making an order under subsection (1) the court may direct the owner to take further action to try to sell the estate or interest in the land.

(5) If the Environment Court makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of that estate or interest shall be deemed to have entered into an agreement with the requiring authority responsible for the designation or requirement for the purposes of section 17 of the Public Works Act 1981.

(6) Where subsection (5) applies in respect of a requiring authority which is a network utility operator approved under section 167—

(a) any agreement shall be deemed to have been entered into with the Minister of Lands on behalf of the network utility operator as if the land were required for a government work; and

(b) all costs and expenses incurred by the Minister of Lands in respect of the acquisition of the land shall be recoverable from the network utility operator as a debt due to the Crown.

(7) The amount of compensation payable for an estate or interest in land ordered to be taken under this section shall be assessed as if the designation or requirement had not been created.

Section 185 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 185(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 185(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 185(3)(b)(ii): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 185(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 185(5): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 186 Compulsory acquisition powers

(1) A network utility operator that is a requiring authority may apply to the Minister of Lands to have land required for a project or work acquired or taken under Part 2 of the Public Works Act 1981 as if the project or work were a government work within the meaning of that Act and, if the Minister of Lands agrees, that land may be taken or acquired.

(2) The effect of any Proclamation taking land for the purposes of subsection (1) shall be to vest the land in the network utility operator instead of the Crown.

(3) Land which is subject to a heritage order shall not be taken without the consent of the heritage protection authority.

(4) Any land held under any enactment or in any other manner by the Crown or a local authority may, with the consent of the Crown or that authority and on such terms and conditions (including price) as may be agreed, be set apart for a project or work of a network utility operator in the manner provided in sections 50 and 52 of the Public Works Act 1981 (with the necessary modifications), but the setting apart shall not be subject to sections 40 and 41 of that Act. Any land so set apart shall vest in the network utility operator.

(5) Any claim for compensation under the Public Works Act 1981 in respect of land acquired or taken in accordance with this section shall be made against the Minister of Lands.

(6) All costs and expenses incurred by the Minister of Lands in respect of the acquisition or taking of land in accordance with this section (including any compensation payable by the Minister) shall be recoverable from the network utility operator as a debt due to the Crown.

(7) Sections 40 and 41 of the Public Works Act 1981 shall apply to land acquired or taken in accordance with this section as if the network utility operator concerned were the Crown.

(7A) This section does not apply if—

(a) the network utility operator is a responsible SPV; and

(b) the land is protected Māori land.

(8) For the purposes of this section, an interest in land, including a leasehold interest, may be acquired or taken as if references to land were references to an interest in land.

Section 186(1): replaced, on 1 August 2003, by section 67 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 186(7A): inserted, on 7 August 2020, by section 161 of the Infrastructure Funding and Financing Act 2020 (2020 No 47).

*Heritage orders*

### 187 Meaning of heritage order and heritage protection authority

In this Act—

**heritage order** means a provision made in a district plan to give effect to a requirement made by a heritage protection authority under section 189 or section 189A

**heritage protection authority** means—

(a) any Minister of the Crown including—

(i) the Minister of Conservation acting either on his or her own motion or on the recommendation of the New Zealand Conserva-

tion Authority, a local conservation board, the New Zealand Fish and Game Council, or a Fish and Game Council; and

(ii) the Minister for Māori Development acting either on his or her own motion or on the recommendation of an iwi authority:

(b) a local authority acting either on its own motion or on the recommendation of an iwi authority:

(c) Heritage New Zealand Pouhere Taonga, in so far as it carries out its functions under section 13(1)(i) of the Heritage New Zealand Pouhere Taonga Act 2014:

(d) a body corporate that is approved as a heritage protection authority under section 188.

Section 187 **heritage order**: amended, on 7 July 1993, by section 100(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 187 **heritage protection authority** paragraph (a)(ii): amended, on 1 July 2020, by section 60 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 187 **heritage protection authority** paragraph (c): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 187 **heritage protection authority** paragraph (d): amended, on 7 July 1993, by section 100(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 188 Application to become heritage protection authority

(1) Any body corporate having an interest in the protection of any place may apply to the Minister in the prescribed form for approval as a heritage protection authority for the purpose of protecting that place.

(2) For the purpose of this section, and sections 189 and 191, **place** includes any feature or area, and the whole or part of any structure.

(3) The Minister may make such inquiry into the application and request such information as he or she considers necessary.

(4) The Minister may, by notice in the *Gazette*, approve an applicant under subsection (1) as a heritage protection authority for the purpose of protecting the place and on such terms and conditions (including provision of a bond) as are specified in the notice.

(5) The Minister shall not issue a notice under subsection (4) unless he or she is satisfied that—

(a) the approval of the applicant as a heritage protection authority is appropriate for the protection of the place that is the subject of the application; and

(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a heritage protection authority under this Act.

(6) Where the Minister is satisfied that—

(a) a heritage protection authority is unlikely to continue to satisfactorily protect the place for which approval as a heritage protection authority was given; or

(b) a heritage protection authority is unlikely to satisfactorily carry out any responsibility as a heritage protection authority under this Act,—

the Minister shall, by notice in the *Gazette*, revoke an approval given under subsection (4).

(7) Upon—

(a) the revocation of the approval of a body corporate under subsection (6); or

(b) the dissolution of any body corporate approved as a heritage protection authority under subsection (4)—

all functions, powers, and duties of the body corporate under this Act in relation to any heritage order, or requirement for a heritage order, shall be deemed to be transferred to the Minister under section 192.

(8) *[Repealed]*

Section 188 heading: amended, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 188(3): replaced, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 188(4): replaced, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 188(5): replaced, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 188(6): replaced, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 188(7): replaced, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 188(8): repealed, on 7 July 1993, by section 101 of the Resource Management Amendment Act 1993 (1993 No 65).

### 189 Notice of requirement to territorial authority

(1) A heritage protection authority may give notice in the prescribed form to a territorial authority of its requirement for a heritage order for the purpose of protecting—

(a) any place of special interest, character, intrinsic or amenity value or visual appeal, or of special significance to the tangata whenua for spiritual, cultural, or historical reasons; and

(b) such area of land (if any) surrounding that place as is reasonably necessary for the purpose of ensuring the protection and reasonable enjoyment of that place.

(1A) However, a heritage protection authority that is a body corporate approved under section 188 must not give notice of a requirement for a heritage order in respect of any place or area of land that is private land.

(2) For the purposes of this section, a place may be of special interest by having special cultural, architectural, historical, scientific, ecological, or other interest.

(3) *[Repealed]*

(4) A heritage protection authority may withdraw a requirement under this section by giving notice in writing to the territorial authority affected.

(5) Upon receipt of notification under subsection (4), the territorial authority shall—

(a) publicly notify the withdrawal; and

(b) notify all persons upon whom the requirement has been served.

(6) In this section,—

**Crown** includes—

(a) the Sovereign in right of New Zealand; and

(b) departments of State; and

(c) State enterprises named in Schedule 1 of the State-Owned Enterprises Act 1986; and

(d) Crown entities within the meaning of section 7 of the Crown Entities Act 2004; and

(e) the mixed ownership model companies named in Schedule 5 of the Public Finance Act 1989; and

(f) local authorities within the meaning of the Local Government Act 2002

**private land**—

(a) means any land held in fee simple by any person other than the Crown; and

(b) includes—

(i) Maori land within the meaning of section 4 of Te Ture Whenua Maori Act 1993; and

(ii) land held by a person under a lease or licence granted to the person by the Crown.

Section 189(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 189(1A): inserted, on 19 April 2017, by section 98(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 189(3): repealed, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 189(6): inserted, on 19 April 2017, by section 98(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 189A Notice of requirement for heritage order by territorial authority

(1) This section applies if a territorial authority decides to issue a notice of requirement for a heritage order within its own district for the purposes described in section 189(1) and (2).

(2) The territorial authority must decide whether to notify the notice of requirement under—

(a) subsection (2A); or

(b) sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF, which apply with all necessary modifications and as if—

(i) a reference to an application or notice were a reference to the notice of requirement; and

(ii) a reference to an applicant, the Minister, or the EPA were a reference to the territorial authority; and

(iii) a reference to an activity were a reference to the heritage order.

(2A) Despite section 149ZCB(1), a territorial authority must publicly notify the notice if—

(a) it has not already decided whether to give public or limited notification of the notice; and

(b) either—

(i) further information is requested from the territorial authority under section 92(1), but the territorial authority—

(A) does not provide the information before the deadline concerned; or

(B) refuses to provide the information; or

(ii) the territorial authority is notified under section 92(2)(b) in relation to the commissioning of a report, but the territorial authority—

(A) does not respond before the deadline concerned; or

(B) refuses to agree to the commissioning of the report.

(2B) Subsection (2A) applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

(3) Section 189 applies to the notice of requirement with all necessary modifications.

(4) If the requirement is publicly notified, any person may make a submission about it to the territorial authority.

(5) If the requirement is the subject of limited notification, a person notified may make a submission about it to the territorial authority.

(6) A submission must be in the prescribed form.

(7) A submission must be served on the territorial authority within the time allowed by section 97, which applies with all necessary modifications.

(8) A submission may state whether—

(a) it supports the requirement; or

(b) it opposes the requirement; or

(c) it is neutral.

(9) Sections 99 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant or a consent authority were a reference to the territorial authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to an activity were a reference to the heritage order.

(9A) However, section 101(2) does not apply to the notice of requirement, and the date for the commencement of the hearing is as follows:

(a) if the notice of requirement was not notified, the date must be within 25 working days after the date the notice of requirement was given by the territorial authority:

(b) if the notice of requirement was notified and the territorial authority gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the notice of requirement:

(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the notice of requirement.

(10) In considering the requirement, the territorial authority must have regard to—

(a) the matters set out in section 191; and

(b) all submissions.

(11) The territorial authority may—

(a) confirm the requirement, with or without conditions; or

(b) modify the requirement, with or without conditions; or

(c) withdraw the requirement.

Section 189A: replaced, on 1 October 2009, by section 112 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 189A(2): replaced, on 18 October 2017, by section 160(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 189A(2A): inserted, on 18 October 2017, by section 160(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 189A(2B): inserted, on 18 October 2017, by section 160(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 189A(9): replaced, on 18 October 2017, by section 160(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 189A(9A): inserted, on 3 March 2015, by section 113 of the Resource Management Amendment Act 2013 (2013 No 63).

### 190 Further information, notification, submissions, and hearing for notice of requirement to territorial authority

(1) If a territorial authority is given a notice of requirement under section 189, the territorial authority must decide whether to notify the notice under—

(a) subsection (1A); or

(b) sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF, which apply with all necessary modifications and as if—

(i) a reference to an application or notice were a reference to the notice of requirement; and

(ii) a reference to an applicant were a reference to the heritage protection authority; and

(iii) a reference to the Minister or the EPA were a reference to the territorial authority; and

(iv) a reference to an activity were a reference to the heritage order.

(1A) Despite section 149ZCB(1), a territorial authority must publicly notify the notice if—

(a) it has not already decided whether to give public or limited notification of the notice; and

(b) either—

(i) the territorial authority requests further information from the heritage protection authority under section 92(1), but the heritage protection authority—

(A) does not provide the information before the deadline concerned; or

(B) refuses to provide the information; or

(ii) the territorial authority notifies the heritage protection authority under section 92(2)(b) that it wants to commission a report, but the heritage protection authority—

(A) does not respond before the deadline concerned; or

(B) refuses to agree to the commissioning of the report.

(1B) Subsection (1A) applies despite any rule or national environmental standard that precludes public or limited notification of the notice of requirement.

(2) If the requirement is publicly notified, any person may make a submission about it to the territorial authority.

(3) If the requirement is the subject of limited notification, a person notified may make a submission about it to the territorial authority.

(4) A submission must be in the prescribed form.

(5) A submission must be served on the territorial authority within the time allowed by section 97, which applies with all necessary modifications, and a copy of the submission must be served on the heritage protection authority as soon as is reasonably practicable after the submission is served on the territorial authority.

(6) A submission may state whether—

(a) it supports the requirement; or

(b) it opposes the requirement; or

(c) it is neutral.

(7) Sections 92 to 92B and 98 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant were a reference to the heritage protection authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to a consent authority were a reference to the territorial authority; and

(e) a reference to an activity were a reference to the heritage order; and

(f) a reference to a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 191.

(8) However, section 101(2) does not apply to the notice of requirement, and the date for the commencement of the hearing is as follows:

(a) if the notice of requirement was not notified, the date must be within 25 working days after the date the notice of requirement was given to the territorial authority:

(b) if the notice of requirement was notified and the territorial authority gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the notice of requirement:

(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 work-

ing days after the closing date for submissions on the notice of requirement.

Section 190: replaced, on 1 October 2009, by section 113 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 190(1): replaced, on 18 October 2017, by section 161(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 190(1A): inserted, on 18 October 2017, by section 161(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 190(1B): inserted, on 18 October 2017, by section 161(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 190(7): replaced, on 18 October 2017, by section 161(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 190(8): inserted, on 3 March 2015, by section 114(3) of the Resource Management Amendment Act 2013 (2013 No 63).

### 191 Recommendation by territorial authority

(1) Subject to Part 2, when considering a requirement made under section 189, a territorial authority shall have regard to the matters set out in the notice given under section 189 (together with any further information and reports with which the authority is supplied), and all submissions, and shall also have particular regard to—

(a) whether the place merits protection; and

(b) whether the requirement is reasonably necessary for protecting the place to which the requirement relates; and

(c) whether the inclusion in the requirement of any area of land surrounding the place is necessary for the purpose of ensuring the protection and reasonable enjoyment of the place; and

(d) all relevant provisions of any national policy statement, New Zealand coastal policy statement, regional policy statement, regional plan, or district plan; and

(e) section 189(1); and

(f) as appropriate, management plans or strategies approved under any other Act which relate to the place.

(2) After considering a requirement made under section 189, the territorial authority may recommend—

(a) that the requirement be confirmed, with or without modifications; or

(b) that the requirement be withdrawn.

(3) In recommending the confirmation of a requirement under subsection (2)(a), the territorial authority may recommend the imposition of—

(a) a condition that the heritage protection authority reimburse the owner of the place for any additional costs of upkeep of the place required as a result of the making of the heritage order:

(b) such other conditions as the territorial authority considers appropriate.

(4) The territorial authority shall give reasons for a recommendation made under subsection (2).

Section 191(1): amended, on 1 October 2009, by section 114 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 191(1): amended, on 7 July 1993, by section 104(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 191(1)(e): amended, on 7 July 1993, by section 104(b) of the Resource Management Amendment Act 1993 (1993 No 65).

### 192 Application of other sections

The following sections shall, with all necessary modifications, apply in respect of a requirement under section 189 or section 189A as if the heritage protection authority was a requiring authority, the heritage order was a designation, and references to section 171 were references to section 191:

(a) section 172, which relates to decisions of requiring authorities:

(aa) section 170, which relates to the discretion to include requirements in proposed plans:

(b) section 173, which relates to public notification of such decisions:

(c) section 174, which relates to appeals against such decisions:

(d) section 175, which relates to the provision of designations in district plans:

(e) section 180, which relates to the transferability of designations.

(f) *[Repealed]*

Section 192: amended, on 7 July 1993, by section 105(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 192(aa): inserted, on 7 July 1993, by section 105(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 192(f): repealed, on 1 October 2009, by section 115 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 193 Effect of heritage order

Where a heritage order is included in a district plan then, regardless of the provisions of any plan or resource consent, no person may, without the prior written consent of the relevant heritage protection authority named in the plan in respect of the order, do anything including—

(a) undertaking any use of land; and

(b) subdividing any land; and

(c) changing the character, intensity, or scale of the use of any land—

that would wholly or partly nullify the effect of the heritage order.

Section 193(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 193A Land subject to existing heritage order or designation

(1) Subject to sections 9(2) and 11 to 15, where a heritage order is included in a district plan, and the land that is the subject of the heritage order is already the subject of an earlier heritage order or a designation,—

(a) the heritage protection authority responsible for the later heritage order may do anything that is in accordance with that heritage order only if that authority has first obtained the written consent of the authority responsible for the earlier order or designation; and

(b) the authority responsible for the earlier order or designation may, notwithstanding section 193 and without obtaining the prior written consent of the later heritage protection authority, do anything that is in accordance with the earlier order or designation.

(2) The authority responsible for the earlier designation or order may withhold its consent under subsection (1) only if that authority is satisfied—

(a) that, in the case of an earlier designation, the thing to be done would prevent or hinder the public work or project or work to which the designation relates; or

(b) that in the case of an earlier heritage order, the thing to be done would wholly or partly nullify the effect of the order.

Section 193A: inserted, on 7 July 1993, by section 106 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 193A(1): amended, on 1 October 2009, by section 116 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 194 Interim effect of requirement

(1) This section applies when—

(a) a heritage protection authority gives notice of a requirement for a heritage order to the EPA under section 145:

(b) a heritage protection authority gives notice of a requirement for a heritage order to a territorial authority under section 189:

(c) a territorial authority decides to issue a notice of requirement for a heritage order within its own district under section 189A:

(d) a territorial authority decides to include a requirement for a heritage order in its proposed district plan under clause 4 of Schedule 1.

(2) In the period that starts as described in subsection (3) and ends as described in subsection (4), no person may do anything that would wholly or partly nullify the effect of the heritage order unless the person has the prior written consent of the heritage protection authority.

(3) The period starts,—

(a) for the purposes of subsection (1)(a), on the day on which the heritage protection authority gives notice under section 145:

(b) for the purposes of subsection (1)(b), on the day on which the heritage protection authority gives notice of the requirement under section 189:

(c) for the purposes of subsection (1)(c), on the day on which the territorial authority decides whether to notify the notice of requirement under section 189A:

(d) for the purposes of subsection (1)(d), on the day on which the territorial authority decides to include a requirement for a heritage order in its proposed district plan under clause 4 of Schedule 1.

(4) The period ends on the earliest of the following days:

(a) the day on which the requirement is withdrawn:

(b) the day on which the requirement is cancelled:

(c) the day on which the heritage order is included in the district plan.

(5) A person who contravenes subsection (2) does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the requirement.

Section 194: replaced, on 1 October 2009, by section 117 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 195 Appeals relating to sections 193 and 194

(1) Any person who—

(a) proposes to do anything in relation to land that is subject to a heritage order or requirement for a purpose which, but for the heritage order or requirement, would be lawful; and

(b) has been refused consent to undertake that use by a heritage protection authority under section 193 or section 194, or has been granted such consent subject to conditions—

may appeal to the Environment Court against the refusal or the conditions.

(2) Notice of an appeal under this section shall—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required to be stated by regulations; and

(c) be lodged with the Environment Court and served on the heritage protection authority whose decision is appealed against, within 15 working days of receiving the heritage protection authority's decision under section 193 or section 194.

(3) In considering an appeal under this section, the court shall have regard to—

(a) whether the decision appealed against has caused or is likely to cause serious hardship to the appellant; and

(b) whether the decision appealed against would render the land which is subject to the heritage order or requirement incapable of reasonable use; and

(c) the extent to which the decision may be modified without wholly or partly nullifying the effect of the requirement or heritage order—

and may confirm or reverse the decision appealed against or modify the decision in such manner as the court thinks fit.

Section 195(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 195(2)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 195(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 195A Alteration of heritage order

(1) A heritage protection authority that is responsible for a heritage order may at any time give notice to the territorial authority of its requirement to alter the heritage order.

(2) Sections 189 to 195 and 198AA to 198AD apply, with all necessary modifications, to a requirement to alter a heritage order as if it were a requirement for a new heritage order.

(3) However, a territorial authority may at any time alter a heritage order in its district plan or a requirement in its proposed district plan if—

(a) the alteration—

(i) involves no more than a minor change to the effects on the environment associated with the heritage order concerned; or

(ii) involves only minor changes or adjustments to the boundaries of the heritage order or requirement; and

(b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and

(c) the territorial authority and the heritage protection authority agree with the alteration.

(4) Sections 189 to 195 and 198AA to 198AD do not apply to an alteration under subsection (3).

(5) This section applies, with all necessary modifications, to a requirement by a territorial authority to alter its own heritage order or requirement within its own district.

Section 195A: inserted, on 1 October 2009, by section 118 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 195A(2): amended, on 3 March 2015, by section 115 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 195A(4): amended, on 3 March 2015, by section 115 of the Resource Management Amendment Act 2013 (2013 No 63).

### 195B Transfer of heritage order

(1) The Minister may, on the Minister's own initiative, transfer responsibility for an existing heritage order to another heritage protection authority.

(2) However, the Minister must not exercise the power under subsection (1) if—

(a) the heritage order relates to private land; and

(b) the transfer of the order is to a body corporate approved under section 188.

(3) In determining whether to transfer responsibility for an order under subsection (1), the Minister must take into account—

(a) the heritage values of the place or area subject to the heritage order; and

(b) the reasonable use of the place or area despite it being subject to a heritage order; and

(c) any other matters that the Minister considers relevant, such as—

(i) the effect of the heritage order on the property rights of the owner and occupier (if any) of the place or area:

(ii) the ability of the heritage protection authority to whom the Minister proposes to transfer the heritage order to protect the place or area.

(4) Before the Minister may make a determination to transfer responsibility for a heritage order under this section, the Minister must serve written notice of the Minister's intention to do so on—

(a) the heritage protection authority currently responsible for the heritage order; and

(b) the heritage protection authority to whom the Minister proposes to transfer that responsibility; and

(c) the owner and occupier (if any) of the place or area subject to the heritage order and any other person with a registered interest in that place or area; and

(d) the territorial authority in whose district the place or area subject to the order is located.

(5) The persons or organisations served with a notice under subsection (4) may, within 20 working days after being served, make a written objection or submission to the Minister on the Minister's proposal.

(6) The Minister must take into account all objections and submissions received within the specified time before making a final determination.

(7) In subsection (2), **private land** has the meaning given in section 189(6).

Section 195B: inserted, on 19 April 2017, by section 99 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 195C Notice of determination

(1) The Minister must publish a notice in the *Gazette* of the Minister's determination under section 195B.

(2) The territorial authority in whose district the place or area subject to an order under section 195B is located must note the transfer of responsibility for the heritage order by amending the district plan accordingly as soon as is reasonably practicable without using a process set out in Schedule 1.

Section 195C: inserted, on 19 April 2017, by section 99 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 196 Removal of heritage order

Section 182 shall apply, with all necessary modifications, in respect of the removal of heritage orders as if—

(a) a heritage protection authority was a requiring authority; and

(b) a heritage order was a designation, except that the removal of a heritage order from a district plan shall not take effect until 10 working days after notice of removal is received by the territorial authority or after the territorial authority gives notice of the removal of its heritage order in its own district.

Section 196(b): amended, on 7 July 1993, by section 108 of the Resource Management Amendment Act 1993 (1993 No 65).

### 197 Compulsory acquisition powers

(1) The acquisition of land by a heritage protection authority for the purposes of giving effect to a heritage order shall be deemed to be an acquisition of land, or an interest in land, for a public work for the purposes of the Public Works Act 1981.

(2) Where a heritage protection authority is neither the Crown nor a local authority, section 186 shall apply, with all necessary modifications, as if every reference to a network utility operator were a reference to a heritage protection authority.

### 198 Environment Court may order land taken, etc

(1) Upon application made to the Environment Court by the owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a heritage order, or requirement under section 189 or section 189A, if the court is satisfied that—

(a) the applicant was the owner or spouse, civil union partner, or de facto partner of the owner on the date when the heritage order was included in the district plan or the requirement was made; and

(b) the applicant has tried but been unable to enter into an agreement for the sale of the estate or interest in the land subject to the heritage order or requirement at a price not less than the market value the land would have had if it were not subject to the heritage order or requirement; and

(c) the heritage order or requirement renders or will render the land in respect of which it applies, incapable of reasonable use,—

the Environment Court may make an order giving the heritage protection authority the option of either withdrawing the requirement or causing the heritage order to be removed, as the case may be, or taking the land under the Public Works Act 1981.

(2) Before making an order under subsection (1), the court may direct the owner to take further action to try to sell the estate or interest in the land.

(3) If the court makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of the land shall be deemed to have entered into an agreement with the heritage protection authority responsible for the heritage order or requirement for the purposes of section 17 of the Public Works Act 1981.

(4) Where subsection (3) applies in respect of a heritage protection authority that is neither the Crown nor a local authority—

(a) any agreement shall be deemed to have been entered into with the Minister for Land Information on behalf of the heritage protection authority as if the land were required for a government work; and

(b) all costs and expenses incurred by the Minister for Land Information in respect of the acquisition of the land shall be recoverable from the heritage protection authority as a debt due to the Crown.

(5) The amount of compensation payable for an estate or interest in land ordered to be taken under this section shall be assessed as if the heritage order or requirement had not been made.

Section 198 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 198(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 198(1): amended, on 7 July 1993, by section 109 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 198(1)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 198(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 198(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 198(4)(a): amended, on 1 July 1996, pursuant to section 2(1) of the Survey Amendment Act 1996 (1996 No 55).

Section 198(4)(b): amended, on 1 July 1996, pursuant to section 2(1) of the Survey Amendment Act 1996 (1996 No 55).

*Time limits from which time periods are excluded in relation to designations and heritage orders*

Heading: inserted, on 3 March 2015, by section 116 of the Resource Management Amendment Act 2013 (2013 No 63).

### 198AA Time limits from which time periods are excluded in relation to designations and heritage orders

(1) This section provides for the deferral of certain time limits relating to designations and heritage orders.

(2) The first column of the table lists the provisions specifying time limits from which certain time periods must be excluded.

(3) The second column lists the provisions describing time periods that must be excluded from the corresponding time limits.

| Provisions specifying time limits | Provisions describing time periods to be excluded |
|---|---|
| Section 95 (which relates to the time limit for notification) as applied by section 169(1) or 190(1) to a notice of requirement given to a territorial authority | Section 198AB(2), (4), or (6)<br>Section 198AD(2) |
| Section 198D(3) (which relates to the time limit for a territorial authority report on a notice of requirement, given to a territorial authority, to be directly referred to the Environment Court) | Section 198AB(2), (4), or (6)<br>Section 198AD(4) |
| Section 198J(2) (which relates to the time limit for a territorial authority report on a notice of requirement, given by a territorial authority, to be directly referred to the Environment Court) | Section 198AD(4) |
| Section 168A(2AA)(a) or 189A(9A)(a) (which relates to the time limit for commencement of a hearing of a non-notified notice of requirement given by a territorial authority) | Section 198AD(2) |
| Section 168A(2AA)(b) or (c) or 189A(9A)(b) or (c) (which relates to the time limit for commencement of a hearing of a notified notice of requirement given by a territorial authority) | Section 198AC(8)<br>Section 198AD(4) |
| Section 169(3)(a) or 190(8)(a) (which relates to the time limit for commencement of a hearing of a non-notified notice of requirement given to a territorial authority) | Section 198AB(2), (4), or (6)<br>Section 198AD(2) |
| Section 169(3)(b) or (c) or 190(8)(b) or (c) (which relates to the time limit for commencement of a hearing of a notified notice of requirement given to a territorial authority) | Section 198AB(2), (4), or (6)<br>Section 198AC(2), (4), or (6)<br>Section 198AD(4) |

Section 198AA: inserted, on 3 March 2015, by section 116 of the Resource Management Amendment Act 2013 (2013 No 63).

### 198AB Excluded time periods relating to provision of further information

*Request for further information*

(1) Subsection (2) applies when—

(a) a territorial authority has requested a requiring authority or heritage protection authority, under section 92(1), to provide further information on a notice of requirement; and

(b) the request is the first request made by the territorial authority to the requiring authority or heritage protection authority under that provision—

(i) at all; or

(ii) after the closing date for submissions.

(2) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date of the request under section 92(1); and

(b) ending as follows:

(i) if the requiring authority or heritage protection authority provides the information within 15 working days, the date on which it provides the information:

(ii) if the requiring authority or heritage protection authority agrees within 15 working days to provide the information and provides the information, the date on which it provides the information:

(iii) if the requiring authority or heritage protection authority agrees within 15 working days to provide the information and does not provide the information, the date set under section 92A(2)(a):

(iv) if the requiring authority or heritage protection authority does not respond to the request within 15 working days, the date on which the period of 15 working days ends:

(v) if the requiring authority or heritage protection authority refuses within 15 working days to provide the information, the date on which it refuses to provide the information.

*Commissioning of report—other authority agrees*

(3) Subsection (4) applies when—

(a) a territorial authority has notified a requiring authority or heritage protection authority, under section 92(2)(b), of its wish to commission a report; and

(b) the requiring authority or heritage protection authority agrees, under section 92B(1), to the commissioning of the report.

(4) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date of the notification under section 92(2)(b); and

(b) ending with the date on which the territorial authority receives the report.

*Commissioning of report—other authority disagrees*

(5) Subsection (6) applies when—

(a) a territorial authority has notified a requiring authority or heritage protection authority, under section 92(2)(b), of its wish to commission a report; and

(b) the requiring authority or heritage protection authority does not agree, under section 92B(1), to the commissioning of the report.

(6) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date of the notification under section 92(2)(b); and

(b) ending with the earlier of the following:

(i) the date on which the period of 15 working days ends; and

(ii) the date on which the territorial authority receives the requiring authority's or heritage protection authority's refusal, under section 92B(1), to agree to the commissioning of the report.

Section 198AB: inserted, on 3 March 2015, by section 116 of the Resource Management Amendment Act 2013 (2013 No 63).

### 198AC Excluded time periods relating to direct referral

*Request for direct referral declined and no objection*

(1) Subsection (2) applies when—

(a) a requiring authority or heritage protection authority makes a request under section 198B(1); and

(b) the territorial authority declines the request under section 198C(4) to (5A); and

(c) the requiring authority or heritage protection authority does not object under section 357(8).

(2) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date on which the territorial authority receives the request; and

(b) ending with the date on which the 15 working days referred to in section 357C(1) end.

*Request for direct referral declined and objection dismissed*

(3) Subsection (4) applies when—

(a) a requiring authority or heritage protection authority makes a request under section 198B(1); and

(b) the territorial authority declines the request under section 198C(4) to (5A); and

(c) the territorial authority dismisses the requiring authority's or heritage protection authority's objection under section 357D.

(4) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date on which the territorial authority receives the request; and

(b) ending with the date on which the territorial authority notifies the requiring authority or heritage protection authority of its decision to dismiss the objection.

*Request for direct referral granted or objection upheld*

(5) Subsection (6) applies when—

(a) a requiring authority or heritage protection authority makes a request under section 198B(1); and

(b) either—

(i) the territorial authority grants the request under section 198C(4) to (5A); or

(ii) the territorial authority declines the request under section 198C(4) to (5A), but upholds the requiring authority's or heritage protection authority's objection under section 357D.

(6) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date on which the territorial authority receives the request; and

(b) ending with the earlier of the following:

(i) the date on which the 15 working days referred to in section 198E(2)(a) end; and

(ii) the date on which the requiring authority or heritage protection authority advises the territorial authority that it does not intend to lodge a notice of motion with the Environment Court under section 198E(2).

*Decision to make direct referral to Environment Court*

(7) Subsection (8) applies when a territorial authority makes a decision under section 198H(1).

(8) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date on which the territorial authority makes the decision; and

(b) ending with the earlier of the following:

(i) the date on which the 15 working days referred to in section 198K(1)(a) end; and

(ii) the date on which the territorial authority decides not to lodge a notice of motion with the Environment Court under section 198K(1).

Section 198AC: inserted, on 3 March 2015, by section 116 of the Resource Management Amendment Act 2013 (2013 No 63).

### 198AD Excluded time periods relating to other matters

*Approval sought from affected persons or groups*

(1) Subsection (2) applies when a requiring authority or heritage protection authority tries, for the purposes of section 149ZCF(3), 95F, or 95G, to obtain approval for an activity from any person or group that may otherwise be considered an affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.

(2) The period that must be excluded from every applicable time limit under section 198AA is the time taken by the requiring authority or heritage protection authority in trying to obtain the approvals, whether or not they are obtained.

*Referral to mediation*

(3) Subsection (4) applies when a territorial authority refers persons to mediation under section 99A.

(4) The period that must be excluded from every applicable time limit under section 198AA is the period—

(a) starting with the date of the reference; and

(b) ending with the earlier of the following:

(i) the date on which one of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person's consent to the mediation; and

(ii) the date on which the mediator reports the outcome of the mediation to the territorial authority.

Section 198AD: inserted, on 3 March 2015, by section 116 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198AD(1): amended, on 18 October 2017, by section 162 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## *Streamlining decision-making on designations and heritage orders*

Heading: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198A Sections 198B to 198G apply to requirements under section 168 or 189

(1) Sections 198B to 198G apply when a requiring authority or heritage protection authority wants one of the following requirements to be the subject of a deci-

sion by the Environment Court instead of a recommendation by a territorial authority and a decision by the requiring authority or heritage protection authority:

(a) a requirement for a designation under section 168 that has been notified:

(b) a requirement for a heritage order under section 189 that has been notified:

(c) a requirement under section 181 (other than a notice to which section 181(3) applies) for an alteration to a designation to which section 168 applied that has been notified:

(d) a requirement under section 195A (other than a notice to which section 195A(3) applies) for an alteration to a heritage order to which section 189 applied that has been notified.

(2) If the notice of requirement is called in under section 142(2), sections 198B to 198G cease to apply to it.

Section 198A: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198B Requiring authority or heritage protection authority's request

(1) The requiring authority or heritage protection authority must request the relevant territorial authority to allow the requirement to be the subject of a decision by the Environment Court instead of a recommendation by the territorial authority and a decision by the requiring authority or heritage protection authority.

(2) The requiring authority or heritage protection authority must make the request in the period—

(a) starting on the date on which the requiring authority or heritage protection authority gives notice under section 168 or 189; and

(b) ending 5 working days after the date on which the period for submissions on the requirement closes.

(3) The requiring authority or heritage protection authority must make the request electronically or in writing on the prescribed form.

Section 198B: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198C Territorial authority's decision on request

(1) If the territorial authority receives the request after it has determined that the requirement will not be notified, it must return the request.

(2) If the territorial authority receives the request before it has determined whether the requirement will be notified, it must defer its decision on the request until after it has decided whether to notify the requirement and then apply either subsection (3) or (4).

(3) If the territorial authority decides not to notify the requirement, it must return the request.

(4) If the territorial authority decides to notify the requirement, it must give the requiring authority or heritage protection authority its decision on the request within 15 working days after the date of the decision on notification.

(5) In any other case, the territorial authority must give the requiring authority or heritage protection authority its decision on the request within 15 working days after receiving the request.

(5A) Despite the discretion to grant a request under subsection (4) or (5), if regulations have been made under section 360(1)(hm),—

(a) the territorial authority must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

(b) that obligation to grant the request does not apply if the territorial authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.

(6) No submitter has a right to be heard by the territorial authority on a request.

(7) If the territorial authority returns or declines the request, it must give the requiring authority or heritage protection authority its reasons, in writing or electronically, at the same time as it gives the authority its decision.

(8) If the territorial authority declines the request under subsections (4) to (5A), the requiring authority or heritage protection authority may object to the territorial authority under section 357.

Section 198C: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198C(5A): inserted, on 4 September 2013, by section 39(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198C(8): amended, on 4 September 2013, by section 39(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 198D Territorial authority's subsequent processing

(1) If the territorial authority does not grant the request under section 198B, it must continue to process the requirement.

(2) If the territorial authority decides to grant the request under section 198B, it must continue to process the requirement and must comply with subsections (3) to (7).

(3) The territorial authority must prepare a report on the requirement within the longer of the following periods:

(a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes:

(b) the period that ends 20 working days after the date on which the territorial authority decides to grant the request.

(4) In the report, the territorial authority must—

(a) address issues that are set out in section 171 or 191 to the extent that they are relevant to the requirement; and

(b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications); and

(c) provide a summary of submissions received.

(5) As soon as is reasonably practicable after the report is prepared, the territorial authority must provide a copy to—

(a) the requiring authority or heritage protection authority; and

(b) every person who made a submission on the requirement.

(6) The territorial authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority's report.

(7) In providing that assistance, the territorial authority—

(a) is a party to the proceedings; and

(b) must be available to attend hearings to—

(i) discuss or clarify any matter in its report:

(ii) give evidence about its report:

(iii) discuss submissions received and address issues raised by the submissions:

(iv) provide any other relevant information requested by the court.

Section 198D: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198D(2): amended, on 4 September 2013, by section 40(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198D(4): amended, on 4 September 2013, by section 40(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198D(4)(b): amended, on 4 September 2013, by section 40(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198D(4)(c): inserted, on 4 September 2013, by section 40(4) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198D(6): inserted, on 4 September 2013, by section 40(5) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198D(7): inserted, on 4 September 2013, by section 40(5) of the Resource Management Amendment Act 2013 (2013 No 63).

### 198E Environment Court decides

(1) Subsection (2) applies to a requiring authority or heritage protection authority who—

(a) receives a report under section 198D(5); and

(b) continues to want the requirement to be the subject of a decision by the Environment Court instead of a recommendation by the territorial authority and a decision by the requiring authority or heritage protection authority.

(2) The requirement is referred to the Environment Court by the requiring authority or heritage protection authority,—

(a) within 15 working days after receiving the report, lodging with the Environment Court a notice of motion in the prescribed form applying for confirmation of the requirement and specifying the grounds upon which the application for confirmation is made, and a supporting affidavit as to the matters giving rise to that application; and

(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on—

(i) the territorial authority that granted the requiring authority's or heritage protection authority's request under section 198B; and

(ii) every person who made a submission to the territorial authority on the requirement; and

(c) telling the Registrar of the Environment Court by written notice when the copies have been served.

(3) A territorial authority served under subsection (2)(b)(i) must, without delay, provide the Environment Court with—

(a) the requirement to which the notice of motion relates; and

(b) the authority's report on the requirement; and

(c) all the submissions on the requirement that the authority received; and

(d) all the information and reports on the requirement that the authority was supplied with.

(4) Section 274 applies to the notice of motion, and any person who has made a submission to the territorial authority on the requirement and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section.

(5) Parts 11 and 11A apply to proceedings under this section.

(6) If considering a matter that is a notice of requirement for a designation or to alter a designation, the court—

(a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit; and

(c) may waive the requirement for an outline plan to be submitted under section 176A.

(6A) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under subsection (6)(b)(iii) requiring a financial contribution (as defined in section 108(9)).

(7) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the court—

(a) must have regard to the matters set out in section 191(1); and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).

Section 198E: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198E(2): replaced, on 4 September 2013, by section 41(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198E(2)(a): amended, on 3 March 2015, by section 117 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198E(4): amended, on 4 September 2013, by section 41(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198E(5): amended, on 4 September 2013, by section 41(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198E(6A): inserted, on 1 July 2020, by section 61 of the Resource Management Amendment Act 2020 (2020 No 30).

## 198F Residual powers of territorial authority

The territorial authority that would have dealt with the requirement had the Environment Court not done so under section 198E has all the functions, duties, and powers in relation to the designation or heritage order resulting from the requirement as if it had dealt with the requirement itself.

Section 198F: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198G When territorial authority must deal with requirement

(1) This section applies when—

(a) a requiring authority or heritage protection authority receives a report under section 198D(5); and

(b) either—

(i) the requiring authority or heritage protection authority advises the territorial authority that it does not intend to lodge a notice of motion with the Environment Court under section 198E(2); or

(ii) the requiring authority or heritage protection authority does not lodge a notice of motion with the Environment Court under section 198E(2).

(c) *[Repealed]*

(2) The territorial authority must deal with the requirement.

Section 198G: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198G(1)(b)(i): amended, on 3 March 2015, by section 118(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198G(1)(b)(ii): amended, on 3 March 2015, by section 118(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198G(1)(c): repealed, on 3 March 2015, by section 118(3) of the Resource Management Amendment Act 2013 (2013 No 63).

### 198H Sections 198I to 198M apply to requirements under section 168A or 189A

(1) Sections 198I to 198M apply when a territorial authority makes a decision that one of the following requirements is to be the subject of a decision by the Environment Court instead of a decision by the territorial authority:

(a) a requirement for a designation under section 168A that has been notified:

(b) a requirement for a heritage order under section 189A that has been notified:

(c) a requirement under section 181 (other than a notice to which section 181(3) applies) for an alteration to a designation to which section 168A applied that has been notified:

(d) a requirement under section 195A (other than a notice to which section 195A(3) applies) for an alteration to a heritage order to which section 189A applied that has been notified.

(2) If the notice of requirement is called in under section 142(2), sections 198I to 198M cease to apply to it.

Section 198H: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198I Territorial authority's decision

(1) The territorial authority must make its decision in the period—

(a) starting on the date on which the territorial authority decides to notify the requirement under section 168A(1A) or 189A(2); and

(b) ending 5 working days after the date on which the period for submissions on the requirement closes.

(2) No submitter has a right to be heard by the territorial authority on a decision under section 198H.

Section 198I: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198J Territorial authority's subsequent processing

(1) The territorial authority must continue to process the requirement and must comply with subsections (2) to (6).

(2) The territorial authority must prepare a report on the requirement within the longer of the following periods:

(a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes:

(b) the period that ends 20 working days after the date on which the territorial authority makes its decision under section 198H(1).

(3) In the report, the territorial authority must—

(a) address issues that are set out in section 168A(3) or 189A(10) to the extent that they are relevant to the requirement; and

(b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications); and

(c) provide a summary of submissions received.

(4) As soon as is reasonably practicable after the report is prepared, the territorial authority must provide a copy to every person who made a submission on the requirement.

(5) The territorial authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority's report.

(6) In providing that assistance, the territorial authority—

(a) is a party to the proceedings; and

(b) must be available to attend hearings to—

(i) discuss or clarify any matter in its report:

(ii) give evidence about its report:

(iii) discuss submissions received and address issues raised by the submissions:

(iv) provide any other relevant information requested by the court.

Section 198J: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198J(1): amended, on 4 September 2013, by section 42(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198J(3): amended, on 4 September 2013, by section 42(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198J(3)(b): amended, on 4 September 2013, by section 42(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198J(3)(c): inserted, on 4 September 2013, by section 42(4) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198J(5): inserted, on 4 September 2013, by section 42(5) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198J(6): inserted, on 4 September 2013, by section 42(5) of the Resource Management Amendment Act 2013 (2013 No 63).

### 198K Environment Court decides

(1) If the territorial authority continues to want the requirement to be determined by the Environment Court, the requirement is referred to the court by the territorial authority,—

(a) within 15 working days after preparing the report, lodging with the Environment Court a notice of motion in the prescribed form applying for confirmation of the requirement and specifying the grounds upon which the application for confirmation is made, and a supporting affidavit as to the matters giving rise to that application; and

(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on every person who made a submission to the territorial authority on the requirement; and

(c) telling the Registrar of the Environment Court by written notice when the copies have been served.

(2) The territorial authority must, without delay, provide the Environment Court with—

(a) the requirement to which the notice of motion relates; and

(b) the territorial authority's report on the requirement; and

(c) all the submissions on the requirement that the territorial authority received; and

(d) all the information and reports on the requirement that the territorial authority was supplied with.

(3) Section 274 applies to the notice of motion, and any person who has made a submission to the territorial authority on the requirement and wishes to be

heard on the matter by the Environment Court must give notice to the court in accordance with that section.

(4) Parts 11 and 11A apply to proceedings under this section.

(5) If considering a matter that is a notice of requirement for a designation or to alter a designation, the court—

(a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit; and

(c) may waive the requirement for an outline plan to be submitted under section 176A.

(5A) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under subsection (5)(b)(iii) requiring a financial contribution (as defined in section 108(9)).

(6) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the court—

(a) must have regard to the matters set out in section 191(1); and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).

Section 198K: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198K(1): replaced, on 4 September 2013, by section 43(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198K(1)(a): amended, on 3 March 2015, by section 119 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198K(3): amended, on 4 September 2013, by section 43(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198K(4): amended, on 4 September 2013, by section 43(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198K(5A): inserted, on 1 July 2020, by section 62 of the Resource Management Amendment Act 2020 (2020 No 30).

### 198L Residual powers of territorial authority

The territorial authority that would have dealt with the requirement had the Environment Court not done so under section 198K has all the functions, duties, and powers in relation to the designation or heritage order resulting from the requirement as if it had dealt with the requirement itself.

Section 198L: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 198M When territorial authority must deal with requirement

(1) This section applies when—

(a) a territorial authority prepares a report under section 198J; and

(b) the territorial authority does not lodge a notice of motion with the Environment Court under section 198K(1).

(c) *[Repealed]*

(2) The territorial authority must deal with the requirement.

Section 198M: inserted, on 1 October 2009, by section 119 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 198M(1)(b): amended, on 3 March 2015, by section 120(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 198M(1)(c): repealed, on 3 March 2015, by section 120(2) of the Resource Management Amendment Act 2013 (2013 No 63).

## Part 9
## Water conservation orders

### 199 Purpose of water conservation orders

(1) Notwithstanding anything to the contrary in Part 2, the purpose of a water conservation order is to recognise and sustain—

(a) outstanding amenity or intrinsic values which are afforded by waters in their natural state:

(b) where waters are no longer in their natural state, the amenity or intrinsic values of those waters which in themselves warrant protection because they are considered outstanding.

(2) A water conservation order may provide for any of the following:

(a) the preservation as far as possible in its natural state of any water body that is considered to be outstanding:

(b) the protection of characteristics which any water body has or contributes to, and which are considered to be outstanding,—

(i) as a habitat for terrestrial or aquatic organisms:

(ii) as a fishery:

(iii) for its wild, scenic, or other natural characteristics:

(iv) for scientific and ecological values:

(v) for recreational, historical, spiritual, or cultural purposes:

(c) the protection of characteristics which any water body has or contributes to, and which are considered to be of outstanding significance in accordance with tikanga Maori.

### 200 Meaning of water conservation order

In this Act, the term **water conservation order** means an order made under section 214 for any of the purposes set out in section 199 and that imposes restrictions or prohibitions on the exercise of regional councils' powers under paragraphs (e) and (f) of section 30(1) (as they relate to water) including, in particular, restrictions or prohibitions relating to—

(a) the quantity, quality, rate of flow, or level of the water body; and

(b) the maximum and minimum levels or flow or range of levels or flows, or the rate of change of levels or flows to be sought or permitted for the water body; and

(c) the maximum allocation for abstraction or maximum contaminant loading consistent with the purposes of the order; and

(d) the ranges of temperature and pressure in a water body.

### 201 Application for water conservation order

(1) Any person may, upon payment of any prescribed fee, apply to the Minister for the making of a water conservation order in respect of any water body.

(2) An application under subsection (1) shall—

(a) identify the water body concerned; and

(b) state the reasons for the application with reference, where practicable, to the matters set out in sections 199, 200, and 207; and

(c) describe the provisions which, in the applicant's opinion, should be included in a water conservation order and the effect that such provisions would have on the water body.

(3) The Minister may by notice in writing require the applicant to supply such further information in respect of the application as the Minister considers necessary.

### 202 Minister's obligations upon receipt of application

(1) After receipt of an application (and any further information required by the Minister) under section 201 and after making such inquiry in respect of the application as the Minister considers necessary, the Minister shall as soon as practicable either—

(a) appoint a special tribunal to hear and report on the application; or

(b) reject the application—

and notify the applicant of his or her decision, and where the application is rejected, of his or her reasons for the rejection.

(2) Before appointing a special tribunal under subsection (1)(a), the Minister shall, where appropriate, consult with the Minister for Māori Development and the Minister of Conservation regarding the membership of the tribunal.

Section 202(2): amended, on 1 July 2020, by section 63 of the Resource Management Amendment Act 2020 (2020 No 30).

### 203 Special tribunal

(1) A special tribunal appointed under section 202 shall—

(a) comprise no fewer than 3, and no more than 5, members; and

(b) have a chairperson appointed either by the Minister or, if the Minister declines to do so, by the members.

(2) Every special tribunal shall be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of a special tribunal, out of money appropriated by Parliament for the purpose,—

(a) remuneration by way of fees, salary, or allowances in accordance with that Act; and

(b) travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of the tribunal—

and the provisions of that Act apply accordingly.

(3) A member of a special tribunal is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the tribunal.

Section 203(3): inserted, on 1 October 2009, by section 120 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 204 Public notification of application

(1) As soon as practicable after its appointment, a special tribunal shall ensure that—

(a) public notice of the application is given; and

(ab) a copy of the short summary of the notice referred to in section 2AB(1)(b), along with details of the Internet site where the notice can be accessed, is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; and

(b) such other public notification of the application as the tribunal considers appropriate is given; and

(c) notice of the application is served on—

(i) the applicant; and

(ii) the relevant regional council; and

(iii) the relevant territorial authorities; and

(iv) the relevant iwi authorities; and

(v) such persons as the tribunal considers appropriate.

(2) Every notice for the purposes of this section shall be in the prescribed form and shall state—

(a) a description of the application, and where the application and any relevant information held by the special tribunal may be viewed; and

(b) that submissions on the application may be made in writing by any person; and

(c) the effect of section 205(3); and

(d) that the matters to be considered by the tribunal may be wider than the matters raised in the application; and

(e) the closing date for the receipt by the tribunal of such submissions; and

(f) the address for service of the tribunal and each applicant.

(3) Section 92 shall, with all necessary modifications, apply in respect of a water conservation order as if—

(a) every reference therein to a consent authority were a reference to the special tribunal; and

(b) every reference therein to a consent were a reference to the order.

Section 204(1)(a): replaced, on 18 October 2017, by section 163 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 204(1)(ab): inserted, on 18 October 2017, by section 163 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 205 Submissions to special tribunal

(1) Any person may make submissions to the special tribunal about an application which is notified in accordance with section 204.

(2) Sections 37, 96(5) and (6), and 98 shall, with all necessary modifications, apply in respect of every submission made under subsection (1) as if—

(a) every reference therein to a consent authority were a reference to the tribunal; and

(b) every reference therein to a consent were a reference to an order; and

(c) the reference in section 96(6)(a) to section 97 were a reference to subsection (7) of this section.

(3) Any person who supports the making of a water conservation order but who would prefer—

(a) that the order instead preserve a different but related water body in the same catchment; or

(b) that different features and qualities of the water body be preserved,—

shall endeavour, in his or her submission,—

(c) to make that preference known to the tribunal; and

(d) to specify the reasons for the preference, referring, where practicable, to the matters set out in sections 199, 200, and 207; and

(e) to describe the provisions which, in the person's opinion, should be included in the water conservation order and the effect that those provisions would have on the water body.

(4) Any submission that does not contain all the matters referred to in subsection (3) may nevertheless be considered by the tribunal.

(5) Any person who makes a submission opposing the making of an order shall specify the reasons why he or she considers the proposed order is not justified in terms of section 199 and section 207.

(6) The special tribunal may, by notice in writing, require any person making a submission to supply such further information in respect of the submission as the special tribunal considers necessary.

(7) The closing date for serving submissions on a special tribunal is the 20th working day after notification of the application under section 204 is complete or such later date as is notified under section 37.

Section 205(2): amended, on 1 October 2009, by section 121(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 205(2)(b): amended, on 1 October 2009, by section 121(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 205(2)(c): inserted, on 1 October 2009, by section 121(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 206 Conduct of hearing

(1) The Minister shall, without delay, provide a special tribunal with the application in respect of which it has been appointed and any other relevant information received or held by the Minister.

(2) *[Repealed]*

(3) Sections 39, 40 to 42, 99 to 100, and 101 shall, with all necessary modifications, apply in respect of an application to a special tribunal as if—

(a) every reference in those sections to a consent authority were a reference to the special tribunal; and

(b) every reference in those sections to a resource consent were a reference to a water conservation order.

(3A) However, section 101(2) does not apply to the application, and the date for the commencement of the hearing is as follows:

(a) if the special tribunal gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the application:

(b) if the special tribunal does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the application.

(4) In addition, any hearing must be held at a place determined by the special tribunal that is near the water body to which the application relates.

Section 206(2): repealed, on 1 October 2009, by section 122(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 206(3): amended, on 3 March 2015, by section 121(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 206(3A): inserted, on 3 March 2015, by section 121(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 206(4): replaced, on 3 March 2015, by section 121(3) of the Resource Management Amendment Act 2013 (2013 No 63).

### 207 Matters to be considered

In considering an application for a water conservation order, a special tribunal shall have particular regard to the purpose of a water conservation order and the other matters set out in section 199 and shall also have regard to—

(a) the application and all submissions; and

(b) the needs of primary and secondary industry, and of the community; and

(c) the relevant provisions of every national policy statement, New Zealand coastal policy statement, regional policy statement, regional plan, district plan, and any proposed plan.

Section 207: amended, on 7 July 1993, by section 110(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 207(c): amended, on 7 July 1993, by section 110(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 208 Special tribunal to report on application

(1) As soon as reasonably practicable, a special tribunal shall prepare a report on the application for a water conservation order and give notice in accordance with subsection (2).

(2) A notice for the purposes of subsection (1) shall—

(a) either include a draft water conservation order, or state that the tribunal recommends that the application be declined; and

(b) state the reasons for the tribunal's conclusion; and

(c) be sent to the applicant, the Minister, the regional council, the relevant territorial authorities, the relevant iwi authorities, and every person who made a submission on the application.

### 209 Right to make submissions to Environment Court

(1) Any of the following persons may make a submission to the Environment Court in accordance with subsection (2) in respect of the whole or any part of a report of a special tribunal under section 208:

(a) the applicant for the proposed water conservation order to which the report relates:

(b) any person who made a submission to the special tribunal under section 205:

(c) any other person to whom the Environment Court grants leave to make a submission on the grounds that the person could not reasonably have been expected to know that the report of the special tribunal would affect the person or an aspect of the public interest which that person represents.

(2) A submission shall be lodged with the Environment Court within 15 working days of receipt of the notification of the decision in accordance with section 208(2).

(3) A person who makes a submission shall, within 5 working days of the submission being lodged with the Environment Court, serve a copy of it on the applicant for the proposed water conservation order, the Minister, the regional council, the relevant territorial authorities, the relevant iwi authorities, every person who made a submission on the application, and every other person known by the person making the submission to have made a submission to the Environment Court.

Section 209 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 209(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 209(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 209(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 209(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 210 Environment Court to hold inquiry

If 1 or more submissions are lodged with the Environment Court in accordance with section 209, the court shall conduct a public inquiry in respect of the report to which the submissions relate.

Section 210 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 210: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 211 Who may be heard at inquiry

The following persons have the right to be heard in person or be represented by another person at an inquiry conducted by the Environment Court under section 210:

(a) the applicant for the proposed water conservation order to which the inquiry relates:

(b) the Minister:

(c) the regional council or territorial authority whose region or district may be affected by the proposed water conservation order:

(d) every person who made a submission to the special tribunal under section 205:

(e) any person who is granted leave to make a submission to the Environment Court under section 209(1)(c).

Section 211: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 211(e): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 212 Matters to be considered by Environment Court

In conducting its inquiry, the Environment Court shall have particular regard to the purpose of a water conservation order and the other matters set out in section 199, and shall also have regard to—

(a) the needs of primary and secondary industry, and of the community; and

(b) the relevant provisions of every national policy statement, New Zealand coastal policy statement, regional policy statement, regional plan, district plan, and any proposed plan; and

(c) the report of the special tribunal and any draft water conservation order; and

(d) the application and all submissions lodged with the Environment Court; and

(e) such other matters as the Environment Court thinks fit.

Section 212: replaced, on 7 July 1993, by section 111 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 212 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 212: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 212(d): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 212(e): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 213 Court's report

(1) On completion of its inquiry, the Environment Court shall make a report to the Minister recommending that the special tribunal's report be rejected, or accepted with or without modifications, and, where appropriate,—

(a) include a draft water conservation order; or

(b) recommend that the application for a water conservation order be declined.

(2) The Environment Court shall ensure that its report is publicly notified in such manner as the Environment Court thinks fit.

Section 213: replaced, on 7 July 1993, by section 112 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 213 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 213(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 213(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 214 Making of water conservation order

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make a water conservation order in respect of any water body.

(2) The Minister shall not make a recommendation for the purposes of subsection (1) except in accordance with—

(a) the report of the special tribunal under section 208, where the Environment Court has not conducted an inquiry; or

(b) where the Environment Court has conducted an inquiry, the report of the Environment Court under section 213.

(3) A water conservation order is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 214(2)(a): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 214(2)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 214(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 215 Minister's obligation to state reasons for not accepting recommendation

If a special tribunal reports under section 208, or the Environment Court recommends under section 213, that a water conservation order be made and the Minister decides not to recommend that the Governor-General make the order, then the Minister shall,—

(a) within 20 sitting days after making his or her decision, lay before the House of Representatives a written statement setting out the reasons for his or her decision; and

(b) within 20 working days after making his or her decision, serve on the applicant and every person who made a submission to the special tribunal or the Environment Court, such a written statement.

Section 215: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 215(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 216 Revocation or variation of order

(1) Until the expiration of 2 years after the date a water conservation order is made under section 214 (or under the corresponding provision of any former enactment),—

(a) no application shall be made to the Minister to revoke any such order; and

(b) the Minister shall reject any application made under subsection (2) to amend any such order unless, after having regard to the purposes of the order and the restrictions and prohibitions imposed by the order, the Minister is satisfied that the amendment to which the application relates—

(i) will have no more than a minor effect; or

(ii) is of a technical nature and would enable the order to better achieve any purpose for which it was made; and

(c) no recommendation shall be made to the Governor-General—

(i) to revoke any such order; or

(ii) to amend any such order unless the Minister is satisfied that the amendment is of a minor nature or of a technical nature which would enable the order to better achieve any purpose for which it was made.

(2) Except as provided in subsection (1), any person may at any time apply to the Minister for the revocation or amendment of any water conservation order, and every such application shall state the reasons for the application.

(3) Upon receipt of an application made under subsection (2), if—

(a) the Minister is of the opinion that the application should not be rejected but that, by reason of the minor effect of the amendment, it is unnecessary to hold an inquiry; and

(b) the original applicant for the order (if that person can be located) and the regional council agree to the amendment—

the Minister may recommend that the order be amended, and the Governor-General may, by Order in Council made on the recommendation of the Minister, amend the order accordingly.

(4) Except as provided in subsection (3), an application made under subsection (2) for the revocation or amendment of a water conservation order shall be dealt with in the same manner as an application for such an order, and sections 201 to 215 shall apply accordingly.

(5) An order under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 216(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 217 Effect of water conservation order

(1) No water conservation order shall affect or restrict any resource consent granted or any lawful use established in respect of the water body before the order is made.

(2) Where a water conservation order is operative, the relevant consent authority—

(a) shall not grant a water permit, coastal permit, or discharge permit if the grant of that permit would be contrary to any restriction or prohibition or any other provision of the order:

(b) shall not grant a water permit, a coastal permit, or a discharge permit to discharge water or contaminants into water, unless the grant of any such permit or the combined effect of the grant of any such permit and of existing water permits and discharge permits and existing lawful discharges into the water or taking, use, damming, or diversion of the water is such that the provisions of the water conservation order can remain without change or variation:

(c) shall, in granting any water permit, coastal permit, or discharge permit to discharge water or contaminants into water, impose such conditions as

are necessary to ensure that the provisions of the water conservation order are maintained.

Section 217(2)(a): amended, on 7 July 1993, by section 113(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 217(2)(b): amended, on 7 July 1993, by section 113(2)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 217(2)(b): amended, on 7 July 1993, by section 113(2)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 217(2)(c): amended, on 7 July 1993, by section 113(3) of the Resource Management Amendment Act 1993 (1993 No 65).

# Part 9A
# Freshwater farm plans

Part 9A: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

## 217A Purpose

The purpose of this Part is to better control the adverse effects of farming on freshwater and freshwater ecosystems within specified districts, regions, or parts of New Zealand through the use of certified freshwater farm plans.

Section 217A: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

## 217B Interpretation

In this Part, unless the context otherwise requires,—

**arable land use** means the use of land to grow any of the following crops for harvest:

(a) grain cereal, legumes, or pulse grain:

(b) herbage seed:

(c) oilseed:

(d) maize grain, maize silage, cereal silage, or mangels:

(e) crops grown for seed multiplication:

(f) a crop prescribed in regulations made under section 217M(1)(a)

**auditor** means a person who—

(a) is appointed under section 217K; and

(b) meets the criteria prescribed in regulations made under section 217M(1)(h)

**certified freshwater farm plan** means a freshwater farm plan certified under section 217G, as amended from time to time in accordance with section 217E(2) or (3)

**certifier** means a person who—

(a) is appointed under section 217K; and

(b) meets the criteria prescribed in regulations made under section 217M(1)(h)

**farm** means a farm where all or part of the farm is—

(a) arable land use; or

(b) horticultural land use; or

(c) pastoral land use; or

(d) other agricultural land use prescribed in regulations made under section 217M(1)(b); or

(e) any combination of the above

**farm operator** means the person with ultimate responsibility for the operation of a farm

**horticultural land use** means the use of land to grow food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply

**pastoral land use** means the use of land for the grazing of livestock

**regulations** means regulations made under section 217M

**relevant regional council** means the regional council (as defined in section 2) in whose jurisdiction the farm is located

**specified instrument** means any designation, national environmental standard, national planning standard, regulations made under Part 14, resource consent, rule in a plan, or water conservation order.

Section 217B: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217C Application of this Part

(1) This Part applies only—

(a) to a region, district, or part of New Zealand specified in an Order in Council under this section; and

(b) on and from the date specified in the Order in Council.

(2) The Governor-General may, by Order in Council, on the recommendation of the Minister, determine—

(a) that this Part applies to a specified district, region, or part of New Zealand; and

(b) the date on which this Part applies to that district, region, or part of New Zealand.

(3) Before making a recommendation under subsection (2), the Minister must—

(a) be satisfied that regulations are necessary to achieve the purpose of this Part in the specified district, region, or part of New Zealand; and

(b) consult the Minister of Agriculture.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 217C: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 217C(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 217D Farm must have certified freshwater farm plan if it meets land use threshold

(1) A farm must have a certified freshwater farm plan if—

(a) 20 or more hectares of the farm is arable land use; or

(b) 5 or more hectares of the farm is horticultural land use; or

(c) 20 or more hectares of the farm is pastoral land use; or

(d) a prescribed area of the farm is other agricultural land use prescribed in regulations made under section 217M(1)(b); or

(e) 20 or more hectares of the farm is a combination of any 2 or more of the land uses described above.

(2) A certified freshwater farm plan applies to the entire farm.

Section 217D: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217E Main duties of farm operators

(1) A farm operator of a farm that is required to have a certified freshwater farm plan must—

(a) prepare a freshwater farm plan in accordance with this Part and regulations; and

(b) submit the plan to a certifier for certification; and

(c) ensure that the farm operates in compliance with the certified freshwater farm plan; and

(d) arrange for the farm to be audited in accordance with this Part and regulations for compliance with the certified freshwater farm plan.

(2) A farm operator must keep the certified freshwater farm plan fit for purpose by—

(a) amending the plan as necessary to reflect any changes in the farm; and

(b) amending the plan as necessary to comply with this Part and regulations.

(3) A farm operator must amend and recertify a certified freshwater farm plan if any circumstances prescribed by regulations apply.

Section 217E: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217F Contents of freshwater farm plan

A freshwater farm plan must—

(a) identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems; and

(b) specify requirements that—

(i) are appropriate for the purpose of avoiding, remedying, or mitigating the adverse effects of those activities on freshwater and freshwater ecosystems; and

(ii) are clear and measurable; and

(c) demonstrate how any outcomes prescribed in regulations are to be achieved; and

(d) comply with any other requirements in regulations; and

(e) comply with section 217L.

Section 217F: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217G Certification of freshwater farm plan

(1) The farm operator must, within the prescribed time frame, submit a freshwater farm plan to a certifier.

(2) The certifier must certify a freshwater farm plan if the certifier is satisfied that the plan complies with the requirements in section 217F.

(3) The certifier must, as soon as practicable, notify the relevant regional council—

(a) that the freshwater farm plan has been certified; and

(b) the date on which it was certified.

(4) This section applies, with any necessary modifications, to a certified freshwater farm plan that is required by regulations to be amended and recertified.

Section 217G: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217H Audit of farm for compliance with certified freshwater farm plan

(1) A farm operator must—

(a) arrange, within the prescribed time frame, for an auditor to audit the farm for compliance with the certified freshwater farm plan; and

(b) arrange for further audits to be carried out at the frequency required by regulations.

(2) The audit must be completed in the manner prescribed in regulations.

(3) The farm operator must provide the auditor with—

(a) an up-to-date copy of the certified freshwater farm plan and any relevant information; and

(b) any further information that the auditor reasonably requests for the purpose of the audit; and

(c) reasonable access to the farm (or any part of it) for the purpose of any audit inspection.

(4) After completing the audit, the auditor must—

(a) provide the farm operator with a report of the auditor's findings on whether the farm achieves compliance with the certified freshwater farm plan; and

(b) if the auditor finds that the farm achieves compliance, provide that report to the relevant regional council.

(5) If the auditor finds that the farm fails to achieve compliance with the certified freshwater farm plan,—

(a) the auditor's report—

(i) must include reasons why the farm failed to achieve compliance; and

(ii) specify reasonable time frames by which compliance must be achieved; and

(iii) may include recommendations on how compliance may be achieved; and

(b) the auditor must give the farm operator a reasonable opportunity to respond to the report; and

(c) the auditor must, after the prescribed period has expired, provide the farm operator and the relevant regional council with a final report—

(i) setting out the auditor's findings (including the findings of the first report); and

(ii) stating whether compliance was achieved; and

(iii) including any recommendations from the auditor.

Section 217H: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217I Functions of regional councils

(1) For the purposes of this Part, a regional council has the following functions:

(a) to enforce the observance of the requirements of this Part and regulations to the extent that their powers under this Act enable them to do so; and

(b) to monitor compliance by farm operators with their duties under this Part and with any requirements in regulations; and

(c) to receive notifications of freshwater farm plans that have been certified; and

(d) to receive audit reports and related notifications from auditors.

(2) A regional council may require a farm operator to produce a certified freshwater farm plan for inspection.

Section 217I: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217J Records that must be kept by regional council

A regional council must keep and maintain, in relation to each farm in its jurisdiction, a record of—

(a) whether the farm has a certified freshwater farm plan; and

(b) the date the plan was last certified; and

(c) the date the farm was last audited for compliance with the plan; and

(d) any other information required by regulations.

Section 217J: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217K Regional council must appoint certifiers and auditors

(1) A regional council must—

(a) appoint 1 or more certifiers; and

(b) appoint 1 or more auditors.

(2) A regional council may make an appointment under this section only if satisfied that criteria prescribed in regulations have been met.

Section 217K: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217L Relationship between certified freshwater farm plan and specified instruments

(1) A certified freshwater farm plan may contain a requirement that—

(a) relates to an activity carried out on the farm (an **activity**) even if there is no similar requirement relating to that activity in a provision of a specified instrument:

(b) restricts an activity more than a provision of a specified instrument.

(2) However, if a provision of a specified instrument restricts an activity more than a requirement of a freshwater farm plan, the provision of the specified instrument prevails.

(3) To avoid doubt, compliance with a requirement of a certified freshwater farm plan—

(a) does not of itself authorise a person to undertake an activity:

(b) may be specified or included as a requirement or condition in any specified instrument relating to an activity.

Section 217L: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

### 217M Regulations relating to freshwater farm plans

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister after consulting the Minister of Agriculture, make regulations that—

(a) prescribe crops for the purpose of the definition of arable land use in section 217B:

(b) prescribe agricultural land uses for the purpose of the definition of farm in section 217B:

(c) prescribe the area of land described in section 217D(1)(d) (in relation to agricultural land use prescribed under paragraph (b)):

(d) provide for the content of a freshwater farm plan, including (without limitation) specifying—

(i) any requirements, including any actions, criteria, methods, or thresholds for the purpose of identifying, measuring, avoiding, remedying, or mitigating any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems; and

(ii) outcomes that must be achieved for the purpose of avoiding, remedying, or mitigating those adverse effects on freshwater and freshwater ecosystems; and

(iii) any other information that must be included in the plan for the purpose of this Part:

(e) provide for the form and manner in which a freshwater farm plan must be certified, including (without limitation) prescribing—

(i) time frames that must be complied with by the farm operator and certifier; and

(ii) any fees payable by the farm operator or the manner of calculating those fees:

(f) prescribe the circumstances in which a certified freshwater farm plan must be amended and recertified:

(g) for the purpose of audits of farms for compliance with certified freshwater farm plans, prescribe—

(i) the time frame by which a farm must be audited; and

(ii) the frequency at which those audits must be carried out; and

(iii) the manner in which an audit must be completed; and

(iv) the period after which the auditor must provide their final report under section 217H(5)(c); and

(v) any matters that an auditor must take into account when considering whether the farm achieves compliance with the certified freshwater farm plan; and

(vi) any fees payable by the farm operator or the manner of calculating those fees:

(h) prescribe criteria that apply to the appointment of a person as an auditor or certifier and their continuation in that role:

(i) require auditors, certifiers, and farm operators to supply prescribed information to regional councils for the purpose of section 217I:

(j) prescribe information that a regional council must keep in relation to farms in its jurisdiction:

(k) prescribe infringement offences for the contravention of, or non-compliance with, a provision of this Part or of any regulations made under this section:

(l) provide for any other matters that are contemplated by, or necessary for giving full effect to, this Part and for its due administration.

(2) Regulations under this section may apply generally or to specified districts, regions, or parts of New Zealand.

(3) Regulations under this section may incorporate material by reference under Schedule 1AA (which applies as if references in that schedule to a national environmental standard, national policy statement, or New Zealand coastal policy statement were references to regulations under this section).

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 217M: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 217M(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

# Part 9B
# Effect of nitrogenous fertiliser on freshwater quality and freshwater ecosystems

Part 9B: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

## 217N Purpose of this Part

The purpose of this Part is to enable better monitoring of the actions being taken to improve freshwater quality and freshwater ecosystems, through the collection of sales information on nitrogenous fertiliser to inform freshwater management and planning under this Act.

Section 217N: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

## 217O Nitrogenous fertiliser defined

In this Part, **nitrogenous fertiliser** means fertiliser containing any nitrogenous substance (whether solid or fluid in form) applied to plants or soil as a source of nitrogen nutrition for plants, and with more than 5% of nitrogen weight for weight.

Section 217O: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

## 217P Obligation to comply with regulations

If regulations made under section 217Q are in force, a person of a class specified in regulations must comply with any requirements in regulations relating to—

(a) the collection of information relating to or arising from the sale and purchase of nitrogenous fertiliser; and

(b) the provision of that information to the EPA, a regional council, a specified agency, or a specified person or class of persons.

Section 217P: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

## 217Q Regulations relating to sales information on nitrogenous fertiliser

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister after consulting the Minister of Agriculture, make regulations that—

(a) require persons of a specified class to collect any of the following information relating to or arising from the sale and purchase of nitrogenous fertiliser:

(i) the date of purchase:

(ii) where the purchase took place:

(iii) the name of the seller:

(iv) the name of the purchaser:

(v) the type of fertiliser purchased:

(vi) the volume of fertiliser purchased:

(vii) where the fertiliser is intended to be applied; and

(b) prescribe how the information is to be collected; and

(c) require persons who are required under paragraph (a) to collect the information to provide it to any 1 or more of the following:

(i) the EPA:

(ii) a regional council:

(iii) a specified person or class of persons:

(iv) a specified agency; and

(d) specify the manner in which, and the frequency at which, that information is to be provided; and

(e) allow the collection of personal information of a purchaser only if their purchase exceeds a prescribed volume of nitrogenous fertiliser.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 217Q: inserted, on 1 July 2020, by section 64 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 217Q(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

# Part 10
# Subdivision and reclamations

## 218 Meaning of subdivision of land

(1) In this Act, the term **subdivision of land** means—

(a) the division of an allotment—

(i) by an application to the Registrar-General of Land for the issue of a separate record of title for any part of the allotment; or

(ii) by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or

(iii) by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or

(iv) by the grant of a company lease or cross lease in respect of any part of the allotment; or

(v) by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate record of title for any part of a unit on a unit plan; or

(b) an application to the Registrar-General of Land for the issue of a separate record of title in circumstances where the issue of that record of title is prohibited by section 226,—

and the term **subdivide land** has a corresponding meaning.

(2) In this Act, the term **allotment** means—

(a) any parcel of land under the Land Transfer Act 2017 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—

(i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or

(ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or

(b) any parcel of land or building or part of a building that is shown or identified separately—

(i) on a survey plan; or

(ii) on a licence within the meaning of subpart 6 of Part 3 of the Land Transfer Act 2017; or

(c) any unit on a unit plan; or

(d) any parcel of land not subject to the Land Transfer Act 2017.

(3) For the purposes of subsection (2), an allotment that is—

(a) subject to the Land Transfer Act 2017 and is comprised in 1 record of title or for which 1 record of title could be issued under that Act; or

(b) not subject to that Act and was acquired by its owner under 1 instrument of conveyance—

shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other manner whatsoever, unless the division of the allotment into such parts has been

allowed by a subdivision consent granted under this Act or by a subdivisional approval under any former enactment relating to the subdivision of land.

(4) For the purposes of subsection (2), the balance of any land from which any allotment is being or has been subdivided is deemed to be an allotment.

Section 218(1)(a)(i): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(1)(a)(i): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 218(1)(a)(iii): replaced, on 1 August 2003, by section 69 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 218(1)(a)(v): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(1)(a)(v): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 218(1)(a)(v): amended, on 7 July 1993, by section 114(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 218(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(1)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 218(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(2)(b)(ii): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(2)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(3)(a): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 218(4): inserted, on 17 December 1997, by section 39 of the Resource Management Amendment Act 1997 (1997 No 104).

### 219 Information to accompany applications for subdivision consents

*[Repealed]*

Section 219: repealed, on 1 August 2003, by section 70 of the Resource Management Amendment Act 2003 (2003 No 23).

### 220 Condition of subdivision consents

(1) Without limiting section 108 or any provision in this Part, the conditions on which a subdivision consent may be granted may include any 1 or more of the following:

(a) where an esplanade strip is required under section 230, a condition specifying the provisions to be included in the instrument creating the esplanade strip under section 232:

(aa) a condition requiring an esplanade reserve to be set aside in accordance with section 236:

(ab) a condition requiring the vesting of ownership of land in the coastal marine area or the bed of a lake or river in accordance with section 237A:

(ac) a condition waiving the requirement for, or reducing the width of, an esplanade reserve or esplanade strip in accordance with section 230 or section 405A:

(b) subject to subsection (2), a condition that any specified part or parts of the land being subdivided or any other adjoining land of the subdividing owner be—

(i) transferred to the owner of any other adjoining land and amalgamated with that land or any part thereof; or

(ii) amalgamated, where the specified parts are adjoining; or

(iii) amalgamated, whether the specified parts are adjoining or not, for any purpose specified in a district plan or necessary to comply with any requirement of the district plan; or

(iv) held in the same ownership, or by tenancy-in-common in the same ownership, for the purpose of providing legal access or part of the legal access to any proposed allotment or allotments in the subdivision:

(c) a condition that any allotment be subject to a requirement as to the bulk, height, location, foundations, or height of floor levels of any structure on the allotments:

(d) a condition that provision be made to the satisfaction of the territorial authority for the protection of the land or any part thereof, or of any land not forming part of the subdivision, against natural hazards from any source (being, in the case of land not forming part of the subdivision, natural hazards arising or likely to arise as a result of the subdividing of the land the subject of the subdivision consent):

(e) a condition that filling and compaction of the land and earthworks be carried out to the satisfaction of the territorial authority:

(f) a condition requiring that any easements be duly granted or reserved:

(g) a condition requiring that any existing easements in respect of which the land is the dominant tenement and which the territorial authority considers to be redundant, be extinguished, or be extinguished in relation to any specified allotment or allotments.

(2) For the purposes of subsection (1)(b)—

(a) where any condition requires land to be amalgamated, the territorial authority shall, subject to subsection (3), specify (as part of that condition) that such land be held in 1 record of title or be subject to a covenant entered into between the owner of the land and the territorial authority that any specified part or parts of the land shall not, without the consent

of the territorial authority, be transferred, leased, or otherwise disposed of except in conjunction with other land; and

(b) land shall be regarded as adjoining other land notwithstanding that it is separated from the other land only by a road, railway, drain, water race, river, or stream.

(3) Before deciding to grant a subdivision consent on a condition described in subsection (1)(b), the territorial authority shall consult with the Registrar-General of Land as to the practicality of that condition. If the Registrar-General of Land advises the territorial authority that it is not practical to impose a particular condition, the territorial authority shall not grant a subdivision consent subject to that condition, but may if it thinks fit grant a subdivision consent subject to such other conditions under subsection (1)(b) which the Registrar-General of Land advises are practical in the circumstances.

Section 220(1)(a): replaced, on 7 July 1993, by section 116 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 220(1)(aa): inserted, on 7 July 1993, by section 116 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 220(1)(ab): inserted, on 7 July 1993, by section 116 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 220(1)(ac): inserted, on 7 July 1993, by section 116 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 220(1)(d): amended, on 18 October 2017, by section 164(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 220(1)(d): amended, on 18 October 2017, by section 164(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 220(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 220(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 221 Territorial authority to issue a consent notice

(1) Where a subdivision consent is granted subject to a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners after the deposit of a survey plan (not being a condition in respect of which a bond is required to be entered into by the subdividing owner, or a completion certificate is capable of being or has been issued), the territorial authority shall, for the purposes of section 224, issue a consent notice specifying any such condition.

(2) Every consent notice must be signed by a person authorised by the territorial authority to sign consent notices.

(3) At any time after the deposit of the survey plan,—

(a) the owner may apply to a territorial authority to vary or cancel any condition specified in a consent notice:

(b) the territorial authority may review any condition specified in a consent notice and vary or cancel the condition.

(3A) Sections 88 to 121 and 127(4) to 132 apply, with all necessary modifications, in relation to an application made or review conducted under subsection (3).

(4) Every consent notice shall be deemed—

(a) to be an instrument creating an interest in the land within the meaning of section 51 of the Land Transfer Act 2017, and may be registered accordingly; and

(b) to be a covenant running with the land when registered under the Land Transfer Act 2017, and shall, notwithstanding anything to the contrary in section 103 of the Land Transfer Act 2017, bind all subsequent owners of the land.

(5) Where a consent notice has been registered under the Land Transfer Act 2017 and any condition in that notice has been varied or cancelled after an application or review under subsection (3) or has expired, the Registrar-General of Land shall, if he or she is satisfied that any condition in that notice has been so varied or cancelled or has expired, make an entry in the register and on any relevant instrument of title noting that the consent notice has been varied or cancelled or has expired, and the condition in the consent notice shall take effect as so varied or cease to have any effect, as the case may be.

Section 221(2): replaced, on 1 October 2009, by section 123 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 221(3): replaced, on 10 August 2005, by section 92(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 221(3A): inserted, on 10 August 2005, by section 92(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 221(4)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 221(4)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 221(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 221(5): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 221(5): amended, on 10 August 2005, by section 92(2) of the Resource Management Amendment Act 2005 (2005 No 87).

### 222 Completion certificates

(1) Where under this Part, compliance with a condition of a subdivision consent is dependent on the completion by the owner of any work required by the territorial authority or on the making of a financial contribution (as defined in section 108(9)), the territorial authority may, for the purposes of section 224, issue a certificate to the effect that the owner has entered into a bond binding the owner to carry out and complete the work or make the financial contribution

(as the case may be) to the satisfaction of the territorial authority within such period as the territorial authority may specify.

(2) The territorial authority may from time to time extend any period specified by it under subsection (1), but any such extension shall not affect any security given for the performance of the bond.

(3) The territorial authority may exercise all of the powers conferred upon a consent authority by section 108A as if the bond entered into under this section had been required as a condition of a subdivision consent.

(4) The provisions of section 109 shall apply as if the bond entered into under this section had been required as a condition of a subdivision consent.

(5) In this section, the term **work** includes anything, whether in the nature of works or otherwise, required by the territorial authority to be done by the owner as a condition of a subdivision consent; but does not include contributions of money or land (including esplanade reserves and esplanade strips) as a condition of a subdivision consent.

Section 222(1): amended, on 17 December 1997, by section 40(a) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 222(1): amended, on 17 December 1997, by section 40(b) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 222(3): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 222(5): amended, on 7 July 1993, by section 117 of the Resource Management Amendment Act 1993 (1993 No 65).

*Approval and deposit of survey plans*

### 223 Approval of survey plan by territorial authority

(1) An owner of any land may submit to a territorial authority for its approval, a survey plan in respect of that land if—

(a) a subdivision consent has been obtained for the subdivision to which the survey plan relates, and that consent has not lapsed; or

(b) a certificate of compliance has been obtained, and that certificate has not lapsed.

(1A) Within 10 working days after receiving a survey plan submitted to it under subsection (1), a territorial authority must either—

(a) approve the survey plan; or

(b) decline the survey plan.

(2) Subject to sections 237, 237A, 240, 241, and 243, a territorial authority shall approve a survey plan submitted to it under subsection (1) if it is satisfied that,—

(a) where a subdivision consent has been obtained, the survey plan conforms with the subdivision consent; or

(b) where a certificate of compliance has been obtained, the survey plan conforms with the certificate of compliance.

(3) The chief executive or an authorised officer of the territorial authority must certify that a survey plan has been approved under this section.

(4) A certification under subsection (3) may be made either—

(a) by signing the plan or a copy of it; or

(b) by any other means that—

(i) identifies the person giving the certification and links the certificate to the survey plan; and

(ii) is as reliable as is appropriate to the purposes of this section.

(5) A certificate under subsection (3) is conclusive evidence that all roads, private roads, reserves, land vested in the authority in lieu of reserves, and private ways shown on the survey plan have been authorised and accepted by the territorial authority under this Act and under the Local Government Act 1974.

(6) Nothing in subsection (3) affects any obligation of the subdividing owner under any condition of a subdivision consent or bond entered into relating to the subdivision.

Section 223(1A): inserted, on 1 August 2003, by section 71 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 223(2): amended, on 7 July 1993, by section 118 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 223(3): replaced, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 223(3): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 223(4): replaced, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 223(5): inserted, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 223(6): inserted, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

### 224 Restrictions upon deposit of survey plan

No survey plan shall be deposited for the purposes of section 11(1)(a)(i) or (iii) unless—

(a) *[Repealed]*

(b) where land shown on the survey plan will vest in the Crown or a territorial authority, there is endorsed on the survey plan or deposited with the Registrar-General of Land, written consent to the subdivision given by—

(i) in the case of land subject to the Land Transfer Act 2017, every registered owner of an interest, including any encumbrance, in the land; or

(ii) in the case of land not subject to that Act, every person having an interest, including any encumbrance, in the land that is evidenced by an instrument registered under the Deeds Registration Act 1908; and

(c) there is lodged with the Registrar-General of Land a certificate signed by the chief executive or other authorised officer of the territorial authority stating that it has approved the survey plan under section 223 (which approval states the date of the approval), and all or any of the conditions of the subdivision consent have been complied with to the satisfaction of the territorial authority and that in respect of such conditions that have not been complied with—

(i) a completion certificate has been issued in relation to such of the conditions to which section 222 applies:

(ii) a consent notice has been issued in relation to such of the conditions to which section 221 applies:

(iii) a bond has been entered into by the subdividing owner in compliance with any condition of a subdivision consent imposed under section 108(2)(b); and

(d) there is lodged for registration with the Registrar-General of Land a consent notice in respect of any conditions of a kind referred to in paragraph (c)(ii); and

(e) in relation to any unit plan, the requirements of the Unit Titles Act 2010 relating to the deposit of a unit plan have been complied with; and

(f) in the case of a subdivision of land to be effected by the grant of a cross lease or company lease, or by the deposit of a unit plan, the territorial authority is satisfied on reasonable grounds that every existing building or part of an existing building (including any building or part thereof under construction) to which the cross lease, company lease, or unit title plan relates complies with or will comply with the provisions of the building code described in section 116A of the Building Act 2004, and a certificate signed by a person authorised by the territorial authority to sign such certificates is lodged with the Registrar-General of Land; and

(g) where land is shown upon the survey plan to be subject to an esplanade strip, there is lodged for registration with the Registrar-General of Land an instrument creating that strip; and

(h) less than 3 years has elapsed since the territorial authority approved the plan under section 223.

Section 224: amended, on 21 December 2021, by section 14 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Section 224: amended, on 1 October 2009, by section 124(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 224(a): repealed, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 224(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 224(b)(i): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 224(b)(ii): amended, on 7 July 1993, by section 119(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 224(c): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 224(c): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 224(c): amended, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 224(c): amended, on 7 July 1993, by section 119(2)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 224(c)(iii): amended, on 17 December 1997, by section 42(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 224(d): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 224(d): amended, on 7 July 1993, by section 119(2)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 224(e): amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Section 224(e): amended, on 7 July 1993, by section 119(2)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 224(f): replaced, on 7 July 1993, by section 119(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 224(f): amended, on 1 October 2009, by section 124(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 224(f): amended, on 14 April 2005, by section 14(2) of the Building Amendment Act 2005 (2005 No 31).

Section 224(f): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 224(f): amended, on 17 December 1997, by section 42(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 224(g): inserted, on 7 July 1993, by section 119(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 224(g): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 224(g): amended, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

Section 224(h): inserted, on 1 June 2002, by section 65(4) of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11).

## 225 Agreement to sell land or building before deposit of plan

(1) Any agreement to sell any land or any building or part of any building that constitutes a subdivision and is made before the appropriate survey plan is approved under section 223, shall be deemed to be made subject to a condition

that the survey plan will be deposited under the Land Transfer Act 2017 or in the Deeds Register Office, as the case may be; and no such agreement is illegal or void by reason that it was entered into before the survey plan was deposited.

(2) Subject to subsection (1), any agreement to sell any allotment in a proposed subdivision made before the appropriate survey plan is approved under section 223 shall be deemed to be made subject to the following conditions:

(a) that the purchaser may, by notice in writing to the vendor, cancel the agreement at any time before the end of 14 days after the date of the making of the agreement:

(b) that the purchaser may, at any time after the expiration of 2 years after the date of granting of the resource consent or 1 year after the date of the agreement, whichever is the later, by notice in writing to the vendor, rescind the contract if the vendor has not made reasonable progress towards submitting a survey plan to the territorial authority for its approval or has not deposited the survey plan within a reasonable time after the date of its approval.

(3) An agreement may be rescinded under subsection (2) notwithstanding that the parties cannot be restored to the position that they were in immediately before the agreement was made, and in any such case the rights and obligations of each party shall, in the absence of agreement between the parties, be as determined by a court of competent jurisdiction.

Section 225(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 226 Restrictions upon issue of certificates of title for subdivision

(1) The Registrar-General of Land shall not issue a record of title for any land that is shown as a separate allotment on a survey plan (being a record of title issued to give effect to the subdivision shown on that survey plan), unless he or she is satisfied, after due inquiry, that—

(a) the plan has been deposited in accordance with section 224 or has been approved by the Chief Surveyor for the purposes of section 228 and the provisions of section 228(2) have been complied with; or

(b) the plan has been deposited in accordance with section 306 of the Local Government Act 1974 or was a Crown plan to which section 306(7) of the Local Government Act 1974 applied; or

(ba) the plan has been approved under Part 25 of the Municipal Corporations Act 1954; or

(bb) the plan has been approved under Part 2 of the Counties Amendment Act 1961; or

(bc) the plan did not require the approval of the Council under Part 2 of the Counties Amendment Act 1961 and was deposited under the Land Transfer Act 2017 after the said Part 2 came into force; or

(c) the plan has been deposited in accordance with the Unit Titles Act 2010; or

(d) the record of title is issued to enable effect to be given to any agreement for sale and purchase or agreement to lease or other contract to create an interest in land or a building or part of a building made before the commencement of this Act; or

(e) the territorial authority has given a certificate signed by the principal administrative officer or other authorised officer to the effect—

(i) that there is no district plan for the area to which the survey plan relates, and that the allotment is in accordance with the requirements and provisions of the proposed district plan; or

(ii) that the allotment is in accordance with the requirements and provisions of the district plan and the proposed district plan (if any) for the area to which the survey plan relates; or

(iii) that the allotment is in accordance with a permission or permissions granted under Part 2 or Part 4 of the Town and Country Planning Act 1977.

(2) Nothing in section 11 shall apply to the issue of a record of title pursuant to subsection (1).

Section 226 heading: amended, on 7 July 1993, by section 120 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 226(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 226(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 226(1)(ba): inserted, on 7 July 1993, by section 120 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 226(1)(bb): inserted, on 7 July 1993, by section 120 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 226(1)(bc): inserted, on 7 July 1993, by section 120 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 226(1)(bc): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 226(1)(c): amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Section 226(1)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 226(1)(e): amended, on 1 August 2003, by section 72 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 226(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 226A Savings in respect of cross leases, company leases, and retirement village leases

(1) Nothing in section 11 or this Part shall apply—

(a) to the registration of a memorandum of cross lease or company lease, in renewal or in substitution for a cross lease or company lease, and the issue of a record of title therefor in respect of a building or part of a building shown on a plan—

(i) deposited or lodged in the land registry office for cross lease or company lease purposes before the commencement of this Act; or

(ii) to which paragraph (b) or paragraph (c) of section 408(1) applies; or

(b) to the registration of a lease of a residence within retirement village premises shown on a plan deposited before the commencement of this Act or the issue of a certificate of title therefor; or

(c) to the renewal or substitution of a company lease in respect of a building or part of a building if the original company lease was in existence before the commencement of this Act (whether or not the renewal or substitution is part of the original company lease or a subsequent company lease).

(2) The Registrar-General of Land shall not register a lease or issue a record of title for a residence within retirement village premises, in respect of a plan deposited before the commencement of this Act, unless a certificate is endorsed on the lease instrument, and signed by the lessor or by a Solicitor of the High Court, that subsection (1)(b) applies.

(3) For the purposes of this section, **retirement village premises** means premises (including any land and associated buildings) within a complex of premises for occupation as residences predominantly by persons who are retired and any spouses or partners of such persons.

Section 226A: inserted, on 7 July 1993, by section 121 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 226A(1)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 226A(1)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 226A(1)(c): inserted, on 1 August 2003, by section 73 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 226A(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 226A(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 227 Cancellation of prior approvals

(1) Where—

(a) before or after the date of commencement of this Act, a survey plan has been deposited under the Land Transfer Act 2017 or under any other authority or in the Deeds Register Office; and

(b) a survey plan of the same land is deposited in accordance with section 224,—

the approval given to the first-mentioned survey plan on or before the date of deposit of the second-mentioned survey plan shall, except as to conditions to which sections 221, and 243 or the equivalent provisions of any former enactment apply,—

(c) be deemed to be cancelled; or

(d) where the land in the second-mentioned survey plan is part only of the land in the first-mentioned survey plan, be deemed to be cancelled so far as it relates to the land in the second-mentioned survey plan.

(2) Subsection (1) does not apply to the deposit of a unit plan, or to a survey plan which gives effect to the grant of a lease to which section 218(1)(a)(iii) applies, or a cross lease or company lease.

Section 227(1): amended, on 17 December 1997, by section 43 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 227(1)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 227(2): inserted, on 7 July 1993, by section 122 of the Resource Management Amendment Act 1993 (1993 No 65).

### 228 Subdivision by the Crown

(1) Where a survey plan of a subdivision by or on behalf of a Minister of the Crown of land not subject to the Land Transfer Act 2017 has been approved by a territorial authority under section 223,—

(a) subject to subsection (2), the approval by the Chief Surveyor of the land district in which the land is situated of the survey plan of the subdivision has legal effect as if it were the deposit of a survey plan in accordance with section 224; and

(b) the land is then deemed to be subject to the Land Transfer Act 2017 and, subject to subsection (2), a record of title for the land may be issued by the Registrar-General of Land in the name of Her Majesty the Queen at the request of—

(i) the Director-General of Conservation if the land is a conservation area within the meaning of the Conservation Act 1987, or a reserve under the Reserves Act 1977, or a national park under the National Parks Act 1980, or a wildlife sanctuary or wildlife refuge under the Wildlife Act 1953; or

(ii) the Surveyor-General or other officer authorised in writing by the Surveyor-General in every other case.

(2) Section 224 shall apply, with all necessary modifications, to a survey plan to which this section applies and the Registrar-General of Land shall not issue a record of title for any land that is shown as a separate allotment on a survey plan approved by a Chief Surveyor unless section 224 is complied with.

Section 228(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 228(1): amended, on 7 July 1993, by section 123(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 228(1)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 228(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 228(1)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 228(1)(b)(i): amended, on 7 July 1993, by section 123(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 228(1)(b)(ii): amended, on 7 July 1993, by section 123(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 228(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 228(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### *Esplanade reserves*

### 229 Purposes of esplanade reserves and esplanade strips

An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

(a) to contribute to the protection of conservation values by, in particular,—

(i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or

(ii) maintaining or enhancing water quality; or

(iii) maintaining or enhancing aquatic habitats; or

(iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or

(v) mitigating natural hazards; or

(b) to enable public access to or along any sea, river, or lake; or

(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

Section 229: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

### 230 Requirement for esplanade reserves or esplanade strips

(1) For the purposes of sections 77, 229 to 237H, and 405A, the size of any allotment shall be determined before any esplanade reserve or esplanade strip is set aside or created, as the case may be.

(2) The provisions of sections 229 to 237H shall only apply where section 11(1)(a) applies to the subdivision.

(3) Except as provided by any rule in a district plan made under section 77(1), or a resource consent which waives, or reduces the width of, the esplanade reserve, where any allotment of less than 4 hectares is created when land is subdivided, an esplanade reserve 20 metres in width shall be set aside from that allotment along the mark of mean high water springs of the sea, and along the bank of any river or along the margin of any lake, as the case may be, and shall vest in accordance with section 231.

(4) For the purposes of subsection (3), a **river** means a river whose bed has an average width of 3 metres or more where the river flows through or adjoins an allotment; and a **lake** means a lake whose bed has an area of 8 hectares or more.

(5) If any rule made under section 77(2) so requires, but subject to any resource consent which waives, or reduces the width of, the esplanade reserve or esplanade strip, where any allotment of 4 hectares or more is created when land is subdivided, an esplanade reserve or esplanade strip shall be set aside or created from that allotment along the mark of mean high water springs of the sea and along the bank of any river and along the margin of any lake, and shall vest in accordance with section 231 or be created in accordance with section 232, as the case may be.

Section 230: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 230(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 231 Esplanade reserves to vest on subdivision

(1) An esplanade reserve required under section 230 or section 236—

(a) shall be set aside as a local purpose reserve for esplanade purposes under the Reserves Act 1977; and

(b) shall vest in and be administered by the territorial authority.

(2) Nothing in this Part shall prevent the change of classification or purpose of an esplanade reserve in accordance with the Reserves Act 1977 or the exercise of any other power under that Act.

(3) Every survey plan submitted to the territorial authority under section 223 shall show the area of land to be so set aside.

Section 231: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

### 232 Creation of esplanade strips

(1) An esplanade strip of the width specified in a rule in a district plan made under section 77 may be created for any purpose specified in section 229 by the registration of an instrument between the territorial authority, and the subdividing owner, prepared in accordance with this section.

(2) Every such instrument shall—

(a) be in accordance with Schedule 10; and

(b) be in the prescribed form; and

(c) be created in favour of the territorial authority; and

(d) create an interest in land, and may be registered under the Land Transfer Act 2017; and

(e) when registered with the Registrar-General of Land, run with and bind the land that is subject to the instrument; and

(f) bind every mortgagee or other person having an interest in the land, without that person's consent.

(3) Where an esplanade strip is created, that strip may be closed to public entry under section 237C.

(4) When deciding under section 220(1)(a) which matters shall be provided for in the instrument, the territorial authority shall consider—

(a) which provisions in clauses 2, 3, and 7 of Schedule 10 (if any) to modify (including the imposition of conditions) or to exclude from the instrument; and

(b) any other matters that the territorial authority considers appropriate to include in the instrument.

(5) When deciding under subsection (4) which provisions (if any) to modify or exclude or what other matters to include, the territorial authority shall consider—

(a) any relevant rules in the district plan; and

(b) the provisions and other matters included in any existing instrument for an esplanade strip, or easement for an access strip, in the vicinity; and

(c) the purpose or purposes of the strip, including the needs of potential users of the strip; and

(d) the use of the strip and adjoining land by the owner and occupier; and

(e) the use of the river, lake, or coastal marine area within or adjacent to the strip; and

(f) the management of any reserve in the vicinity.

Section 232: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 232(2)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 232(2)(e): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 233 Effect of change to boundary of esplanade strip

(1) Where, for any reason, the mark of any mean high water springs or the bank of any river or the margin of any lake alters, and the alteration affects an existing esplanade strip within an allotment, a new esplanade strip coinciding with such alteration shall be deemed to have been created simultaneously with each and every such alteration within the allotment.

(2) Any instrument creating any existing esplanade strip shall continue in existence and shall apply to a new esplanade strip created under subsection (1) without alteration, except as to location of the strip.

(3) Every esplanade strip created by subsection (1) shall be of such dimensions and be situated and subject to the same conditions as if it had been created by an instrument continued under subsection (2) and shall extinguish in whole or in part, as the case may require, the existing esplanade strip which would have continued but for the alterations referred to in subsection (1).

(4) Subject to this section, the provisions of this Act shall apply to every esplanade strip created by subsection (1).

(5) Any person having an interest in land affected by the new esplanade strip created under subsection (1) shall be bound by the instrument applying to that strip.

Section 233: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

### 234 Variation or cancellation of esplanade strips

(1) The registered owner of any land subject to an esplanade strip may apply to the territorial authority to vary or cancel the instrument creating the strip.

(2) The application shall include—

(a) a description of the strip and its location; and

(b) an assessment of the effects of varying or cancelling the strip.

(3) The territorial authority may at any time initiate a proposal to vary or cancel the instrument creating an esplanade strip by preparing a statement covering the matters specified in subsection (2); and references to an application in this section shall include a statement made under this subsection.

(4) Upon receipt of an application under subsection (1) by the territorial authority, or after the preparation of a statement by the territorial authority under subsection (3), the provisions of sections 127 to 132 shall apply as appropriate, with all necessary modifications.

(5) The territorial authority, when considering an application to vary or cancel any instrument creating an esplanade strip shall have regard to—

(a) those matters set out in section 104(1), with all necessary modifications; and

(b) the purpose or purposes, as set out in section 229, for which the strip was created; and

(c) any change in circumstances which has made the strip or any of the conditions in the instrument creating the strip inappropriate or unnecessary.

(6) After considering the application for variation or cancellation of an instrument creating an esplanade strip, the territorial authority—

(a) may grant the application, with or without modifications; or

(b) may decline the application.

(7) When all the appeals (if any) are finally determined, the territorial authority shall lodge for registration with the Registrar-General of Land a certificate, signed by the chief executive or other authorised officer of the territorial authority, specifying the variations to the instrument or that the instrument is cancelled, as the case may be.

(8) The Registrar-General of Land shall make an appropriate entry in the register and on the instrument noting that the instrument has been varied or cancelled, and the instrument shall take effect as so varied or cease to have any effect, as the case may be.

Section 234: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 234(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 234(7): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 234(7): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 234(8): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 235 Creation of esplanade strips by agreement

(1) An esplanade strip may at any time be created for any of the purposes specified in section 229 by agreement between the registered owner of any land and the local authority, and the provisions of sections 229, 232, 233, 234, 237(2), and 237C shall apply, with all necessary modifications.

(2) No instrument for an esplanade strip by agreement may be registered with the Registrar-General of Land unless every person having a registered interest in the land has endorsed his or her consent on the instrument.

Section 235: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 235(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 235(1): amended, on 1 August 2003, by section 74 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 235(1): amended, on 17 December 1997, by section 44 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 235(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 236 Where land previously set aside or reserved

Where—

(a) land along the mean high water mark or the mark of mean high water springs of the sea, or along the bank of any river, or along the margin of any lake, has—

(i) been set aside as an esplanade reserve under this Part, or has been reserved for the purpose specified in section 289 of the Local Government Act 1974, or for public purposes pursuant to section 29(1) of the Counties Amendment Act 1961 or section 11 of the Land Subdivision in Counties Act 1946; or

(ii) been set aside or reserved for public recreation purposes pursuant to any other enactment (whether passed before or after the commencement of this Act and whether or not in force at the commencement of this Act); or

(iii) been reserved from sale or other disposition pursuant to section 24 of the Conservation Act 1987, or section 58 of the Land Act 1948, or the corresponding provisions of any former Act; and

(b) a survey plan of land adjoining that land previously set aside or reserved is submitted to the territorial authority under section 223—

then, notwithstanding that any land of the kind referred to in paragraph (a) has been previously reserved or set aside but subject to any rule in a district plan or any resource consent, there may, as a condition of consent under section 220(1)(aa), be set aside on the survey plan an esplanade reserve adjoining the land previously set aside or reserved, which shall—

(c) be of a width that is the difference between the width of the land previously set aside or reserved and—

(i) the width required by a rule in a district plan under section 77 for an esplanade reserve, if any, where any allotment 4 hectares or more is created when land is subdivided; or

(ii) the width required by a rule in a district plan under section 77 for an esplanade reserve, if any, where any allotment less than 4 hectares is created when land is subdivided; or

(iii) where any allotment less than 4 hectares is created when land is subdivided, and there is no rule in a district plan under section 77, then 20 metres as required under section 230.

Section 236: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 236: amended, on 17 December 1997, by section 45 of the Resource Management Amendment Act 1997 (1997 No 104).

### 237 Approval of survey plans where esplanade reserve or esplanade strips required

(1) Subject to subsection (3), the territorial authority shall not approve a survey plan unless any esplanade reserve or esplanade strip required under this Part is shown on the survey plan.

(2) Notwithstanding anything in the Land Transfer Act 2017, an esplanade strip shall not be required to be surveyed, but where an esplanade strip is shown on the survey plan, it shall be clearly identified in such manner as the Chief Surveyor considers appropriate.

(3) Where—

(a) an esplanade reserve or esplanade strip is required under this Part in respect of a subdivision which is to be effected by the grant of a cross lease or company lease or by the deposit of a unit plan; and

(b) it is not practical to show the esplanade reserve or esplanade strip on the survey plan submitted for approval under section 223 (in this section referred to as the **primary survey plan**)—

the territorial authority, after consultation with the Registrar-General of Land, shall not approve the primary survey plan until a separate survey plan showing the esplanade reserve or esplanade strip has been prepared and submitted to the territorial authority for approval under this section.

(4) Where the territorial authority approves a separate survey plan under subsection (3)—

(a) a memorandum to that effect shall be endorsed on the primary survey plan and the separate survey plan; and

(b) the Registrar-General of Land shall not deposit the primary survey plan and (in respect of a subdivision by the Crown) the Registrar-General of Land shall not issue a record of title for any separate allotment on the primary survey plan approved by the Chief Surveyor for the purposes of section 228, unless the separate survey plan on which the esplanade reserve or esplanade strip is shown is deposited prior to, or at the same time as, the primary survey plan.

(5) Subject to this section, nothing in section 11 or this Part applies to a separate survey plan approved by a territorial authority under this section.

Section 237: replaced, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 237(4)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237(4)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 237A Vesting of land in common marine and coastal area or bed of lake or river

(1) Where a survey plan is submitted to a territorial authority in accordance with section 223, and any part of the allotment being subdivided is the bed of a river or lake or is within the coastal marine area, the survey plan shall—

(a) show as vesting in the territorial authority—

(i) such part of the allotment as forms part of the bed of a river or lake and adjoins an esplanade reserve shown as vesting in the territorial authority; or

(ii) such part of the allotment as forms part of the bed of a river or lake and is required to be so vested as a condition of a resource consent:

(b) show any part of the allotment that is in the coastal marine area as part of the common marine and coastal area.

(2) Any requirement to vest the bed under subsection (1)(a)(i) shall be subject to any rule in a district plan or any resource consent which provides otherwise.

Section 237A: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237A heading: replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 237A(1)(b): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 237A(2): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 237B Access strips

(1) A local authority may agree with the registered owner of any land to acquire an easement over the land, and may agree upon the conditions upon which such an easement may be enjoyed.

(2) Any such easement shall—

(a) be executed by the local authority and the registered owner; and

(b) be in the prescribed form; and

(c) contain the relevant provisions in accordance with Schedule 10.

(3) When deciding which matters shall be provided for in the easement, the parties shall consider—

(a) which provisions in clauses 2, 3, and 7 of Schedule 10 (if any) to modify (including by the imposition of conditions) or to exclude from the easement; and

(b) any other matters that the local authority and registered proprietor consider appropriate to include in the easement.

(4) When deciding under subsection (3) which provisions (if any) to modify or exclude or what other matters to include, the parties shall consider—

(a) any relevant rules in the district plan; and

(b) the provisions and other matters included in any existing instrument for an esplanade strip, or easement for an access strip, in the vicinity; and

(c) the purpose of the strip, including the needs of potential users of the strip; and

(d) the use of the strip and adjoining land by the owner and occupier; and

(e) where appropriate, the use of the river, lake, or coastal marine area within or adjacent to the access strip; and

(f) the management of any reserve in the vicinity.

(5) Any such easement shall take effect when registered at the office of the Registrar-General of Land.

(6) An access strip may be closed to public entry under section 237C.

(7) No easement for an access strip may be registered with the Registrar-General of Land unless every person having a registered interest in the land has endorsed his or her consent on the easement.

(8) The registered owner and the local authority may, by agreement, vary or cancel the easement if the matters in subsection (4) and any change in circumstances have been taken into account; and in any such case the provisions of section 234(7) and (8) shall apply, with all necessary modifications.

Section 237B: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237B(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237B(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237B(5): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 237B(7): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 237B(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 237C Closure of strips to public

(1) An esplanade strip or access strip may be closed to the public for the times and periods specified in the instrument or easement under Schedule 10, or by the local authority during periods of emergency or public risk likely to cause loss of life, injury, or serious damage to property.

(2) The local authority shall ensure, where practicable, that any closure specified in the instrument or easement, or any closure for safety or emergency reasons, is adequately notified (including notification that it is an offence to enter the strip during the period of closure) to the public by signs erected at all entry points to the strip, unless the instrument or easement provides that another person is responsible for such notification.

Section 237C: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

### 237D Transfers to the Crown or regional council

(1) Notwithstanding the provisions of the Reserves Act 1977, the Minister of Conservation or a regional council may, with the prior written agreement of the territorial authority, declare by notice in the *Gazette* that an esplanade reserve, or any part of an esplanade reserve,—

(a) shall cease to be vested in and administered by the territorial authority but instead shall vest in the Crown or the regional council; and

(b) shall have such classification under the Reserves Act 1977 as may be specified in the *Gazette* notice, or shall be included in any existing reserve under that Act,—

and, subject to the provisions of the Reserves Act 1977, the reserve shall be administered in accordance with that classification.

(2) The Minister of Conservation or a regional council may, with the prior written agreement of the territorial authority, declare by notice in the *Gazette* that the bed of any river or lake shall cease to be vested in the territorial authority but instead shall vest in the Crown or the regional council, as the case may be.

(3) The notice shall be registered in the office of the Registrar-General of Land.

Section 237D: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237D(1): amended, on 10 August 2005, by section 94 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 237D(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 237E Compensation for taking of esplanade reserves or strips on allotments of less than 4 hectares

(1) Where an allotment of less than 4 hectares is created when land is subdivided, no compensation for esplanade reserves or esplanade strips shall be payable for any area of land within 20 metres from the mark of mean high water springs of

the sea or from the bank of any river or from the margin of any lake, as the case may be.

(2) Where an esplanade reserve or esplanade strip of a width greater than 20 metres is required to be set aside on an allotment of less than 4 hectares created when land is subdivided, the territorial authority shall pay compensation for the area of the esplanade reserve or esplanade strip above 20 metres, to the registered owner of that allotment, unless the registered owner agrees otherwise.

Section 237E: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237E(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 237F Compensation for taking of esplanade reserves or strips on allotments of 4 hectares or more

Where any esplanade reserve or esplanade strip of any width is required to be set aside or created on an allotment of 4 hectares or more created when land is subdivided, the territorial authority shall pay to the registered owner of that allotment compensation for any esplanade reserve or any interest in land taken for any esplanade strip, unless the registered owner agrees otherwise.

Section 237F: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237F: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 237G Compensation

(1) This section applies if—

(a) the bed of a river or lake—

(i) is vested in the Crown in accordance with section 237A(1)(a); and

(ii) adjoins, or would adjoin if it were not for an esplanade reserve, any allotment of 4 hectares or more when land is subdivided; or

(b) land that is within the coastal marine area—

(i) becomes part of the common marine and coastal area in accordance with section 237A(1)(b); and

(ii) adjoins, or would adjoin if it were not for an esplanade reserve, any allotment of 4 hectares or more created when land is subdivided.

(2) In the case of land referred to in subsection (1)(a), the Crown or territorial authority, as the case may be, must pay compensation to the registered owner of that land, unless the registered owner agrees otherwise.

(3) In the case of land referred to in subsection (1)(b), the Crown must pay compensation to the registered owner of that land, unless the registered owner agrees otherwise.

Section 237G: replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 237G(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237G(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 237H Valuation

(1) If the territorial authority or Crown, as the case may be, and the registered owner cannot agree as to the amount of compensation, including any additional survey costs, payable under section 237E, section 237F, or section 237G, the amount shall be determined by a registered valuer agreed on by the parties (or, failing agreement, nominated by the President of the New Zealand Institute of Valuers), who shall provide a copy of the determination to all parties.

(2) The territorial authority or Crown, as the case may be, or the registered owner who is dissatisfied with the determination under subsection (1) may, within 20 working days after service of the determination, object to the determination to the registered valuer in writing, stating the grounds of objection.

(3) Sections 34, 35, 36, and 38 of the Rating Valuations Act 1998 (and any regulations made under that Act relating to reviews and objections), as far as they are applicable and with all necessary modifications, are to apply to the objection as if—

(a) the registered valuer had been appointed by a territorial authority to review the objection; and

(b) the review had been made under section 34 of that Act; and

(c) the references to a territorial authority in sections 34(4), 35, and 36 of that Act were references to the registered valuer.

(4) For the purposes of this section and of sections 237E to 237G, the amount of compensation shall be equal to—

(a) in the case of an esplanade reserve, the value of the land set aside:

(b) in the case of an esplanade strip, the value of the interest in land created—

and any additional survey costs incurred by reason of the esplanade reserve or esplanade strip, as the case may be, as at the date of the deposit of the survey plan.

Section 237H: inserted, on 7 July 1993, by section 124 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 237H(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237H(1): amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 237H(2): replaced, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Section 237H(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 237H(3): replaced, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

*Vesting of roads and reserves*

### 238 Vesting of roads

(1) When the Registrar-General of Land deposits a survey plan, or a Chief Surveyor approves a survey plan to which section 228 applies, the land shown on the survey plan as road to be vested in a local authority or the Crown vests, free from all interests in land including any encumbrances (without the necessity of any instrument of release or discharge or otherwise),—

(a) in the case of a regional road, in the territorial authority or regional council, as the case may be:

(b) in the case of a Government road declared as such under any Act, in the Crown:

(c) in the case of a State highway, in the Crown or the territorial authority, as the case may be:

(d) in the case of any other road, in the territorial authority.

(2) *[Repealed]*

Section 238: amended, on 7 July 1993, by section 125 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 238(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 238(2): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 239 Vesting of reserves or other land

(1) When the Registrar-General of Land deposits a survey plan, or a Chief Surveyor approves a survey plan to which section 228 applies,—

(a) any land shown on the survey plan as reserve to be vested in the territorial authority or the Crown, vests in the territorial authority or the Crown, as the case may be, free from all interests in land, including any encumbrances (without the necessity of any instrument of release or discharge or otherwise) for the purposes shown on the survey plan, and subject to the Reserves Act 1977; and

(b) any land shown on the survey plan as land to be vested in the territorial authority or in the Crown in lieu of reserves, shall vest in the territorial authority or in the Crown, as the case may be, free from all interests in land, including any encumbrances (without the necessity of an instrument of release or discharge or otherwise); and

(c) any land or any part of the bed of a river (not being part of the coastal marine area) or lake, shown on the survey plan as land to be vested in the territorial authority or the Crown, shall vest in the territorial authority or the Crown, as the case may be, free from all interests in land, including any encumbrances (without the necessity of an instrument of release or discharge or otherwise); and

(d) to avoid doubt, any land shown on the survey plan as land in the coastal marine area becomes part of the marine and coastal area.

(2) Notwithstanding subsection (1), the land may be vested subject to any specified interest which the territorial authority has certified, on the survey plan, shall remain with the land.

(3) Any land vested in the Crown vests under the Land Act 1948 unless this Act provides otherwise.

Section 239(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 239(1)(a): amended, on 7 July 1993, by section 126(1)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 239(1)(b): amended, on 7 July 1993, by section 126(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 239(1)(b): amended, on 7 July 1993, by section 126(1)(c) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 239(1)(c): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 239(1)(d): inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 239(2): inserted, on 7 July 1993, by section 126(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 239(3): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### *Conditions as to amalgamation of land*

### 240 Covenant against transfer of allotments

(1) Where a subdivision consent includes a condition under section 220(1)(b) which requires that the owner enter into a covenant with the territorial authority of the kind referred to in section 220(2)(a), the territorial authority—

(a) shall not approve the survey plan unless the owner has entered into such a covenant; and

(b) when the covenant has been entered into, shall endorse on the survey plan a certificate to this effect.

(2) Where a survey plan is endorsed with a certificate of the kind referred to in subsection (1)(b),—

(a) the Registrar-General of Land shall not deposit the survey plan under the Land Transfer Act 2017, and (in respect of a subdivision by the Crown)

shall not issue a record of title for any separate allotment on a survey plan approved by the Chief Surveyor for the purposes of section 228; and

(b) the Registrar-General of Land shall not deposit the survey plan in the Deeds Register Office,—

unless the covenant referred to in the certificate has been lodged for registration.

(3) Every covenant referred to in subsection (1) shall be in writing, be signed by the owner, be signed by the chief executive or other authorised officer of the territorial authority, and be deemed—

(a) to be an instrument capable of registration under the Land Transfer Act 2017 and, when so registered, to create in favour of the territorial authority an interest in the land in respect of which it is registered, within the meaning of section 51 of that Act; and

(b) to run with the land and bind subsequent owners.

(4) The territorial authority may at any time, whether before or after the survey plan has been deposited in the Land Registry Office or the Deeds Register Office, cancel, in whole or in part, any covenant imposed under this section or under the corresponding provision of any former enactment.

(5) When a territorial authority cancels a covenant in whole or in part, then—

(a) where the survey plan has not been approved by the Chief Surveyor, a memorandum of the cancellation shall be endorsed on the survey plan:

(b) where the survey plan has been approved by the Chief Surveyor or deposited, the territorial authority must forward to the Registrar-General of Land a certificate signed by the chief executive or other authorised officer of the territorial authority to the effect that the covenant has been cancelled in whole or in part, and the Registrar-General of Land must note the records accordingly.

Section 240(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 240(2)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 240(2)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 240(3): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 240(3): amended, on 17 December 1997, by section 46(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 240(3)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 240(4): inserted, on 7 July 1993, by section 127 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 240(5): inserted, on 7 July 1993, by section 127 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 240(5)(b): replaced, on 17 December 1997, by section 46(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 240(5)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 240(5)(b): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

## 241 Amalgamation of allotments

(1) Where a subdivision consent includes a condition under section 220(1)(b) which requires, in accordance with section 220(2)(a), that land be held in a particular record of title,—

(a) the condition shall be endorsed on the survey plan; and

(b) the Registrar-General of Land shall not deposit the survey plan under the Land Transfer Act 2017 or in the Deeds Register Office, as the case may be; and

(c) in respect of a subdivision of the Crown, the Registrar-General of Land shall not issue a record of title for any separate allotment on a survey plan approved by the Chief Surveyor for the purposes of section 228,—

until he or she is satisfied that the condition has been complied with as fully as may be possible in the office of the Registrar-General.

(2) When a condition of the kind referred to in subsection (1), or a similar condition under the corresponding provision of any previous enactment, has been complied with,—

(a) the separate parcels of land included in the record of title in accordance with the condition shall not be capable of being disposed of individually, or of again being held under separate records of title, except with the approval of the territorial authority; and

(b) on the issue of the record of title, the Registrar-General of Land shall enter on the record of title a memorandum that the land is subject to this section.

(3) The territorial authority may at any time, whether before or after the survey plan has been deposited in the Land Registry Office or the Deeds Register Office, cancel, in whole or in part, any condition described in subsection (2).

(4) When a territorial authority cancels a condition in whole or in part, then—

(a) where the survey plan has not been approved by the Chief Surveyor, a memorandum of the cancellation shall be endorsed on the survey plan:

(b) where the survey plan has been approved by the Chief Surveyor or deposited, the territorial authority must forward to the Registrar-General of Land a certificate signed by the chief executive or other authorised officer of the territorial authority to the effect that the condition has been

cancelled in whole or in part, and the Registrar-General of Land must note the records accordingly.

Section 241(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 241(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 241(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 241(1)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 241(1)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 241(1)(c): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 241(2): amended, on 7 July 1993, by section 128(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 241(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 241(2)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 241(2)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 241(3): inserted, on 7 July 1993, by section 128(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 241(4): inserted, on 7 July 1993, by section 128(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 241(4)(b): replaced, on 17 December 1997, by section 47 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 241(4)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 241(4)(b): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

## 242 Prior registered instruments protected

(1) Where—

(a) for the purpose of complying with a condition of a kind referred to in section 220(1)(b),—

(i) a covenant is registered in accordance with section 240, to the effect that specified land shall not, without the approval of the territorial authority, be transferred, leased, or otherwise disposed of except in conjunction with other land; or

(ii) specified land is amalgamated in 1 record of title with any other land in accordance with section 241; and

(b) that other land is already subject to a registered instrument under which a power to sell, a right of renewal, or a right or obligation to purchase is lawfully conferred or imposed; and

(c) that power, right, or obligation becomes exercisable but is not able to be exercised or fully exercised because of section 240(2) or section 241(2)—

the specified land shall be deemed to be and always to have been part of the other land that is subject to that instrument, and all rights and obligations in respect of, and encumbrances on, that other land shall be deemed also to be rights and obligations in respect of, or encumbrances on, the specified land; and the Registrar-General of Land shall enter upon all relevant records of title a memorandum to the effect that the land therein is subject to this subsection.

(2) Where any instrument to which subsection (1) applies is a mortgage, charge, or lien, it shall be deemed to have priority over any mortgage, charge, or lien against the specified land which is registered subsequent to the issue of the record of title pursuant to section 241 or the registration of the covenant entered into pursuant to section 240, as the case may be; and the Registrar-General of Land shall enter upon all relevant records of title a memorandum to the effect that the land therein is subject to this subsection.

(3) Where a memorandum has been entered on a record of title under this section, and the Registrar-General of Land then receives notification pursuant to section 240(5) or section 241(4), the Registrar-General of Land shall note the memorandum accordingly.

Section 242(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 242(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 242(1)(a)(ii): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 242(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 242(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 242(3): inserted, on 7 July 1993, by section 129 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 242(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 242(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Conditions as to easements*

### 243 Survey plan approved subject to grant or reservation of easements

Where a subdivision consent is granted or any record of title is issued subject to a condition that any specified easements be granted or reserved, the following provisions apply:

(a) no such easement shall—

(i) be surrendered by the owner of the dominant tenement; or

(ii) in the case of an easement in gross, be surrendered by the grantee of the easement; or

(iii) be merged by transfer to the owner of the dominant or servient tenement; or

(iv) be varied—

except with the written consent of the territorial authority:

(b) the territorial authority shall not approve the survey plan unless there is endorsed on the survey plan a memorandum showing, with respect to each such easement, which is the dominant tenement and which is the servient tenement or, in the case of an easement in gross, the name of the proposed grantee and which is the servient tenement:

(c) the Registrar-General of Land shall refuse to register any instrument of transfer or conveyance or lease or other disposition of any allotment shown on the survey plan, unless the Registrar is satisfied that all easements so specified which are appurtenant to that allotment or to which that allotment is subject have been duly granted or reserved or will by the registration of that instrument be granted or reserved:

(d) the Registrar-General of Land must endorse on any relevant records of title, a memorial that the easement is subject to the provisions of this section:

(e) the territorial authority may at any time, whether before or after the survey plan has been deposited in the Land Registry Office or the Deeds Register Office, revoke the condition in whole or part:

(f) when a territorial authority cancels a condition in whole or in part, then—

(i) where the survey plan has not been approved by the Surveyor-General, a memorandum of the cancellation must be endorsed on the survey plan or notice of the cancellation must be forwarded by that authority to the Surveyor-General, who must update his or her records accordingly:

(ii) where the survey plan has been approved by the Chief Surveyor or deposited, the territorial authority must forward to the Registrar-General of Land a certificate signed by the chief execu-

tive or other authorised officer of the territorial authority to the effect that the condition has been cancelled in whole or in part, and the Registrar-General of Land must note the records accordingly.

Section 243: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 243: amended, on 7 July 1993, by section 130(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 243(a)(iii): amended, on 7 July 1993, by section 130(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 243(c): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 243(d): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 243(f): replaced, on 7 July 1993, by section 130(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 243(f)(i): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 243(f)(ii): replaced, on 17 December 1997, by section 48 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 243(f)(ii): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 243(f)(ii): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

### *Company leases and cross leases*

### *[Repealed]*

Heading: repealed, on 1 July 1992, pursuant to section 92(1) of the Building Act 1991 (1991 No 150).

## 244 Company leases and cross leases

*[Repealed]*

Section 244: repealed, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

### *Reclamations*

## 245 Consent authority approval of a plan of survey of a reclamation

(1) The holder of every resource consent granted for a reclamation shall as soon as reasonably practicable after completion of the reclamation, submit to the consent authority for its approval a plan of survey in respect of the land that has been reclaimed.

(2) The plan of survey referred to in subsection (1) shall be prepared in accordance with regulations made under the Cadastral Survey Act 2002 relating to survey plans within the meaning of those regulations, and shall show and define—

(a) the area reclaimed, including its location and the position of all new boundaries; and

(b) the location and size of the portion of any area which is required as a condition of a resource consent to be set aside as an esplanade reserve or created as an esplanade strip.

(3) *[Repealed]*

(4) A consent authority shall approve a plan of survey submitted to it under subsection (1) if, and only if, it is satisfied that—

(a) the reclamation conforms with the resource consent and any relevant provisions of any regional plan; and

(b) the plan of survey conforms with subsections (2) and (3) and the resource consent; and

(c) in respect of any condition of the resource consent that has not been complied with—

(i) a bond has been given under section 108(2)(b); or

(ii) a covenant has been entered into under section 108(2)(d).

(5) A regional council (as the consent authority) approves a plan of survey by—

(a) affixing its common seal to the plan of survey (or a copy of it); and

(b) having its chief executive sign and date a certificate stating that—

(i) the reclamation conforms with the resource consent and the relevant provisions of any regional plan; and

(ii) in respect of any condition of the resource consent that has not been complied with, a bond has been given under section 108(2)(b) or a covenant has been entered into under section 108(2)(d).

(6) After signing the certificate referred to in subsection (5)(b), the consent authority shall forward a copy of that certificate to the relevant territorial authority.

Section 245(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 245(2)(b): replaced, on 7 July 1993, by section 131(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 245(3): repealed, on 7 July 1993, by section 131(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 245(4)(c)(i): amended, on 17 December 1997, by section 49(a) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 245(4)(c)(ii): amended, on 17 December 1997, by section 49(b) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 245(5): replaced, on 1 October 2009, by section 125(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 245(6): amended, on 1 October 2009, by section 125(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 246 Restrictions on deposit of plan of survey for reclamation

(1) The holder of every resource consent granted for a reclamation shall take all steps necessary to ensure that the plan of survey is deposited under the Land Transfer Act 2017 or with the Registrar-General of Land as soon as reasonably practicable after the date the plan of survey is approved by the relevant consent authority under section 245.

(2) No plan of survey of a reclamation shall be deposited under the Land Transfer Act 2017 or with the Registrar-General of Land unless—

(a) within the preceding 3 years the relevant consent authority has approved the plan of survey under section 245; and

(b) there is lodged with the Registrar-General of Land a copy of the certificate issued under section 245(5)(b).

(3) On the deposit of a plan of survey under the Land Transfer Act 2017 or by the Registrar-General of Land, the land shown on that plan as esplanade reserve shall be deemed to be set apart and vested in the Crown as local purpose reserve within the meaning of section 23 of the Reserves Act 1977 for the purposes described in section 229 of this Act.

(4) Subsection (3) shall apply notwithstanding section 167 of the Land Act 1948.

Section 246(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 246(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 246(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 246(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 246(2)(b): amended, on 1 October 2009, by section 126 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 246(2)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 246(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 246(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 246(3): amended, on 7 July 1993, by section 132 of the Resource Management Amendment Act 1993 (1993 No 65).

# Part 11
# Environment Court

Part 11 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## 247 Planning Tribunal re-named Environment Court

There shall continue to be a court of record called the Environment Court which shall be the same court as the court called the Planning Tribunal immediately before the commencement of this section and which, in addition to the jurisdiction and powers conferred on it by or pursuant to this Act or any other Act, shall continue to have all the powers inherent in a court of record.

Section 247: replaced, on 2 September 1996, by section 6(1) of the Resource Management Amendment Act 1996 (1996 No 160).

## 248 Membership of Environment Court

The Environment Court shall consist of the following members:

(a) Environment Judges appointed in accordance with sections 249 and 250:

(b) Environment Commissioners appointed in accordance with section 254.

Section 248 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 248: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 248(a): amended, on 1 July 2020, by section 65 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 248(a): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 248(b): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

### *Environment Judges and alternate Environment Judges*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

## 249 Eligibility for appointment as an Environment Judge or alternate Environment Judge

(1) A person shall not be appointed or hold office as an Environment Judge unless he or she is, or is eligible to be, a District Court Judge. If an appointee is not a District Court Judge at the time of appointment as an Environment Judge, he or she shall be appointed as a District Court Judge at that time.

(2) A person may not be appointed or hold office as an alternate Environment Judge unless—

(a) the person is a District Court Judge, an acting District Court Judge, a Maori Land Court Judge, or an acting Maori Land Court Judge; or

(b) the person is a retired Environment Judge under the age of 75 years and the Chief Environment Court Judge certifies to the Attorney-General that the appointment is necessary for the proper conduct of the Environment Court.

Section 249 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 249(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 249(2): replaced, on 1 July 2020, by section 66 of the Resource Management Amendment Act 2020 (2020 No 30).

### 250 Appointment of Environment Judges and alternate Environment Judges

(1) The Governor-General may, on the recommendation of the Attorney-General, after consulting the Minister for the Environment and the Minister for Māori Development,—

(a) appoint a person as an Environment Judge in accordance with section 249(1); or

(b) appoint a person as an alternate Environment Judge—

(i) in accordance with section 249(2)(a); or

(ii) in accordance with section 249(2)(b).

(2) A person appointed under subsection (1)(a) or (b)(i) holds office as an Environment Judge or as an alternate Environment Judge for the term that the person holds office as a District Court Judge, an acting District Court Judge, a Maori Land Court Judge, or an acting Maori Land Court Judge, unless the person sooner resigns or is removed from office under this Act.

(2A) When acting as an Environment Judge, an alternate Environment Judge appointed under subsection (1)(b)(ii) has the jurisdiction, powers, protections, privileges, and immunities of a District Court Judge under the District Court Act 2016.

(2B) A retired Environment Judge—

(a) may be appointed as an alternate Environment Judge for a term of not more than 2 years and may be reappointed for 1 or more terms; but

(b) must not be appointed—

(i) for a term that extends beyond the date on which the Judge reaches the age of 75 years; or

(ii) for multiple terms collectively totalling more than 5 years.

(3) At any one time—

(a) no more than 10 Environment Judges shall hold office; and

(b) any number of alternate Environment Judges shall hold office.

(4) For the purposes of subsection (3)(a),—

(a) an Environment Judge who is acting on a full-time basis counts as 1:

(b) an Environment Judge who is acting on a part-time basis counts as an appropriate fraction of 1:

(c) the aggregate number (for example, 7.5) must not exceed the maximum number of Environment Judges that is for the time being permitted.

(5) The Attorney-General must publish information explaining his or her process for—

(a) seeking expressions of interest for the appointment of Environment Judges and alternate Environment Judges; and

(b) nominating a person for appointment as an Environment Judge or an alternate Environment Judge.

(6) Environment Judges and alternate Environment Judges must not practise as lawyers.

Section 250 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 250(1): replaced, on 1 July 2020, by section 67 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 250(2): replaced, on 1 July 2020, by section 67 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 250(2A): inserted, on 1 July 2020, by section 67 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 250(2B): inserted, on 1 July 2020, by section 67 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 250(3)(a): amended, on 1 October 2009, by section 127 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 250(3)(a): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 250(3)(b): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 250(4): inserted, on 20 May 2004, by section 3(2) of the Resource Management Amendment Act 2004 (2004 No 46).

Section 250(5): inserted, on 1 March 2017, by section 5 of the Resource Management Amendment Act 2016 (2016 No 68).

Section 250(6): inserted, on 1 March 2017, by section 5 of the Resource Management Amendment Act 2016 (2016 No 68).

### 250A Judge not to undertake other employment or hold other office

(1) Environment Judges and alternate Environment Judges must not undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Chief Environment Court Judge.

(2) An approval under subsection (1) may be given only if the Chief Environment Court Judge is satisfied that undertaking the employment or holding the office is consistent with the Judge's judicial office.

(3) However, subsection (1) does not apply to another office if an enactment permits or requires the office to be held by a Judge.

Section 250A: inserted, on 1 March 2017, by section 6 of the Resource Management Amendment Act 2016 (2016 No 68).

Section 250A(1): amended, on 1 July 2020, by section 68 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 250A(2): amended, on 1 July 2020, by section 68 of the Resource Management Amendment Act 2020 (2020 No 30).

### 250B Protocol relating to activities of Judges

(1) The Chief Justice must develop and publish a protocol containing guidance on—

(a) the employment, or types of employment, that he or she considers may be undertaken consistent with being an Environment Judge or alternate Environment Judge; and

(b) the offices, or types of offices, that he or she considers may be held consistent with being an Environment Judge or alternate Environment Judge.

(2) The Chief Justice may develop and publish a protocol under subsection (1) only after consultation with the Chief Environment Court Judge.

Section 250B: inserted, on 1 March 2017, by section 6 of the Resource Management Amendment Act 2016 (2016 No 68).

Section 250B(2): amended, on 1 July 2020, by section 69 of the Resource Management Amendment Act 2020 (2020 No 30).

### 251 Chief Environment Court Judge

(1) The Governor-General may, on the recommendation of the Attorney-General, appoint an Environment Judge as the Chief Environment Court Judge.

(2) The Chief Environment Court Judge shall be responsible for ensuring the orderly and expeditious discharge of the business of the court and accordingly may, subject to the provisions of this or any other Act and to such consultation with the Environment Judges as is appropriate and practicable, make arrangements as to the Environment Judge or Judges and member or members who is or are to exercise the court's jurisdiction in particular matters or classes of matters and in particular places and areas.

Section 251 heading: replaced, on 1 July 2020, by section 70(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251(1): amended, on 1 July 2020, by section 70(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251(1): amended, on 20 May 2004, by section 4 of the Resource Management Amendment Act 2004 (2004 No 46).

Section 251(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 251(2): amended, on 1 July 2020, by section 70(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 251(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

### 251A Appointment of acting Chief Environment Court Judge

(1) This section applies if—

(a) the Chief Environment Court Judge is unable to exercise the duties of office because of illness or absence from New Zealand, or for any other reason; or

(b) the office of Chief Environment Court Judge is vacant.

(2) The Governor-General may appoint another Environment Judge to act in place of the Chief Environment Court Judge until the Chief Environment Court Judge resumes the duties of that office or a successor is appointed, as the case may be.

(3) While acting in place of the Chief Environment Court Judge, the acting Chief Environment Court Judge—

(a) may perform the functions and duties of the Chief Environment Court Judge; and

(b) may for that purpose exercise all the powers of the Chief Environment Court Judge.

Section 251A: inserted, on 10 August 2005, by section 95 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 251A heading: amended, on 1 July 2020, by section 71(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251A(1)(a): amended, on 1 July 2020, by section 71(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251A(1)(b): amended, on 1 July 2020, by section 71(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251A(2): amended, on 1 July 2020, by section 71(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251A(3): amended, on 1 July 2020, by section 71(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251A(3)(a): amended, on 1 July 2020, by section 71(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 251A(3)(b): amended, on 1 July 2020, by section 71(2) of the Resource Management Amendment Act 2020 (2020 No 30).

### 252 When an alternate Environment Judge may act

(1) An alternate Environment Judge may act as an Environment Judge when the Chief Environment Court Judge, in consultation with the Chief District Court Judge or Chief Maori Land Court Judge, considers it necessary for the alternate Environment Judge to do so.

(2) When an alternate Environment Judge acts as an Environment Judge he or she is to be considered a member of the Environment Court for all purposes.

Section 252 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 252(1): amended, on 1 July 2020, by section 72 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 252(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 252(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 252(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

### *Environment Commissioners and Deputy Environment Commissioners*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

### 253 Eligibility for appointment as Environment Commissioner or Deputy Environment Commissioner

When considering whether a person is suitable to be appointed as an Environment Commissioner or Deputy Environment Commissioner of the Environment Court, the Attorney-General shall have regard to the need to ensure that the court possesses a mix of knowledge and experience in matters coming before the court, including knowledge and experience in—

(a) economic, commercial, and business affairs, local government, and community affairs:

(b) planning, resource management, and heritage protection:

(c) environmental science, including the physical and social sciences:

(d) architecture, engineering, surveying, minerals technology, and building construction:

(da) alternative dispute resolution processes:

(e) matters relating to the Treaty of Waitangi and kaupapa Maori.

Section 253 heading: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 253: amended, on 20 September 2007, by section 4 of the Resource Management Amendment Act 2007 (2007 No 77).

Section 253: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 253: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 253(da): inserted, on 2 September 1996, by section 8 of the Resource Management Amendment Act 1996 (1996 No 160).

### 254 Appointment of Environment Commissioner or Deputy Environment Commissioner

(1) The Governor-General may, on the recommendation of the Attorney-General, after consultation with the Minister for the Environment and the Minister for Māori Development, appoint a person as an Environment Commissioner or a Deputy Environment Commissioner of the Environment Court for a period not exceeding 5 years.

(2) A person may be reappointed as an Environment Commissioner or a Deputy Environment Commissioner any number of times.

(3) At any one time any number of Environment Commissioners or Deputy Environment Commissioners may hold office.

(4) If an Environment Commissioner or Deputy Environment Commissioner is not reappointed, he or she may continue in office until his or her successor comes into office, notwithstanding that the term for which he or she was appointed may have expired.

Section 254 heading: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 254(1): amended, on 1 July 2020, by section 73 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 254(1): amended, on 20 May 2004, by section 5 of the Resource Management Amendment Act 2004 (2004 No 46).

Section 254(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 254(1): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 254(2): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 254(3): replaced, on 2 September 1996, by section 9 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 254(4): inserted, on 2 September 1996, by section 9 of the Resource Management Amendment Act 1996 (1996 No 160).

### 255 When a Deputy Environment Commissioner may act

(1) A Deputy Environment Commissioner may act in place of an Environment Commissioner when—

(a) the Environment Commissioner is unavailable; or

(b) the Chief Environment Court Judge considers it necessary that the Deputy Environment Commissioner do so.

(2) When a Deputy Environment Commissioner is acting for an Environment Commissioner, the Deputy Environment Commissioner shall be considered as an Environment Commissioner of the Environment Court for all purposes.

Section 255 heading: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 255(1): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 255(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 255(1)(a): amended, on 2 September 1996, by section 10 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 255(1)(b): amended, on 1 July 2020, by section 74 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 255(1)(b): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 255(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 255(2): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

### 256 Oath of office

A person appointed as an Environment Commissioner or a Deputy Environment Commissioner of the Environment Court shall, before undertaking any duties as such, take an oath of office that he or she will honestly and impartially perform the duties of the office.

Section 256: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 256: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

*Removal and resignation of members*

### 257 Resignation

An Environment Judge, alternate Environment Judge, Environment Commissioner, or Deputy Environment Commissioner may resign his or her office as such by giving written notice to the Attorney-General.

Section 257: amended, on 20 May 2004, by section 6 of the Resource Management Amendment Act 2004 (2004 No 46).

Section 257: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 257: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

### 258 Removal of members

(1) The Governor-General may, if he or she thinks fit, remove an Environment Judge, alternate Environment Judge, Environment Commissioner, or Deputy Environment Commissioner from his or her office as such for inability or misbehaviour.

(2) The removal under subsection (1) of a District Court Judge from office as an Environment Judge or an alternate Environment Judge does not operate to cancel his or her appointment as a District Court Judge.

Section 258(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 258(1): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 258(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

*Special advisors*

### 259 Special advisors

(1) The Chief Environment Court Judge may appoint as a special advisor a person who is able to assist the Environment Court in a proceeding before it.

(2) A special advisor is not a member of the court but may sit with it and assist it in any way the court determines.

Section 259(1): amended, on 1 July 2020, by section 75 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 259(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 259(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

*Officers of court*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 260 Registrar and other officers

(1) The Environment Court—

(a) shall have a Registrar; and

(aa) may have 1 or more Deputy Registrars; and

(b) may have other persons to assist it in an administrative capacity.

(2) The Registrar, a Deputy Registrar, and every other person assisting the court shall—

(a) be appointed under the Public Service Act 2020; and

(b) be officers of the court.

(2A) A Deputy Registrar has all the powers, functions, duties, and immunity of the Registrar subject to the control of the Registrar.

(3) An officer of the court may also hold another office or employment in the public service.

Section 260(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 260(1)(aa): inserted, on 10 August 2005, by section 96(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 260(2): amended, on 10 August 2005, by section 96(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 260(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 260(2)(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 260(2)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 260(2A): inserted, on 10 August 2005, by section 96(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 260(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 260(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### *Miscellaneous provisions relating to court*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## 261 Protection from legal proceedings

(1) No action lies against any member of the Environment Court for anything they say, do, or omit to say or do, while acting in good faith in the performance of their duties.

(2) In addition, a member of the Environment Court who is a District Court Judge also has the immunities conferred by section 23 of the District Court Act 2016 (which confers on District Court Judges, at all times, the same immunities as a Judge of the High Court).

(3) No action lies against the Registrar for anything the Registrar says or does, or omits to say or do, while acting in good faith under section 278(3), section 281(5), or section 281A.

(4) No action lies against a special advisor appointed under section 259 for anything the special advisor says or does, or omits to say or do, while acting in good faith in the performance of the special advisor's duties.

Section 261(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 261(2): inserted, on 20 May 2004, by section 7 of the Resource Management Amendment Act 2004 (2004 No 46).

Section 261(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 261(3): inserted, on 10 August 2005, by section 97 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 261(4): inserted, on 1 July 2020, by section 76 of the Resource Management Amendment Act 2020 (2020 No 30).

### 262 Environment Court members who are ratepayers

A member of the Environment Court is not to be considered to have an interest in a proceeding before the court solely on the ground that the member is a ratepayer.

Section 262 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 262: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 263 Remuneration of Environment Commissioners and special advisors

There shall be paid, out of money appropriated by Parliament for the purpose, to every Environment Commissioner, Deputy Environment Commissioner, and special advisor, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and—

(a) the court shall be a statutory Board for the purposes of that Act; and

(b) every special advisor shall be deemed to be a member of a statutory Board.

Section 263 heading: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 263: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 263(a): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 264 Annual report of Registrar

(1) The Registrar shall no later than 31 August in each year, deliver to the Minister of the Crown who is responsible for the Ministry of Justice a report stating such information relating to the administration, workload, and resources of the Environment Court during the year ending on the preceding 30 June as the Minister of the Crown who is responsible for the Ministry of Justice may require.

(2) The Minister of the Crown who is responsible for the Ministry of Justice shall lay before the House of Representatives each report received by him or her under this section within 10 sitting days of receiving it.

Section 264(1): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 264(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 264(1): amended, on 1 July 1995, by section 10(1) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 264(2): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 264(2): amended, on 1 July 1995, by section 10(1) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

### *Constitution of court*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## 265 Environment Court sittings

(1) The quorum for the Environment Court is—

(a) 1 Environment Judge and 1 Environment Commissioner sitting together; or

(b) 1 Environment Judge sitting alone for the purposes of section 279 or proceedings under Part 12; or

(c) 1 Environment Commissioner sitting alone in accordance with a direction of the Chief Environment Court Judge or an Environment Judge under section 280.

(2) When an Environment Judge sits with an Environment Commissioner or special advisor, the Environment Judge shall preside at the sitting.

(3) A decision of a majority of the members of the Environment Court present at a sitting is the decision of the court but, if there is no majority, the decision of the presiding member is the decision of the court.

Section 265 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(1)(b): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(1)(b): amended, on 7 July 1993, by section 133 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 265(1)(c): amended, on 1 July 2020, by section 77 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 265(1)(c): amended, on 19 April 2017, by section 100 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 265(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(2): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 265(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 266 Constitution of the Environment Court not to be questioned

(1) It is in the sole discretion of the member of the Environment Court presiding at a sitting of the court to decide whether the court has been properly constituted and convened.

(2) The exercise of discretion under subsection (1) may not be questioned in proceedings before the court or in another court.

Section 266 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 266(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 266(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

*Conferences and additional dispute resolution*

### 267 Conferences

(1) An Environment Judge—

(a) must, as soon as practicable after the lodging of proceedings, consider whether to convene a conference presided over by a member of the court; and

(b) may, at any time after the lodging of proceedings, require the parties, or any Minister, local authority, or other person that or who has given notice of intention to appear under section 274, to be present at a conference presided over by a member of the court.

(1A) Each person required to be present at a conference must—

(a) be present in person; or

(b) have at least 1 representative present who has the authority to make decisions on behalf of the person represented on any matters that may reasonably be expected to arise at the conference.

(2) Any party may request an Environment Judge to convene a conference under subsection (1).

(3) The member of the court presiding at any conference under subsection (1) may, after giving the parties an opportunity to be heard, do all or any of the following things:

(a) direct that such amendments to pleadings be made as appear to the member to be necessary:

(b) direct that any admissions which have been made by any party and which do not appear in the pleadings, be recorded in such a manner as the member thinks fit:

(c) define the issues to be tried:

(d) direct that any issue, whether of fact or of law or of both, be tried before any other issue:

(e) fix the dates by which the respective parties shall deliver to the court and to the other parties, statements of the evidence to be given on behalf of the respective parties:

(f) direct the order in which the parties shall present their respective cases:

(g) direct the order in which a party may cross-examine witnesses called on behalf of any other party:

(h) limit the number of addresses and cross-examinations of witnesses by parties having the same interest:

(i) direct that the evidence, or the evidence of any particular witness or witnesses, shall be given orally in open hearing, or by affidavit, or by pre-recorded statement or report duly sworn by the witness before or at the hearing, or partly by one and partly by another or other of such modes of testifying; except that in every case any opposite party shall (if that party so requires) have the opportunity of cross-examining any witness:

(j) determine any question of admissibility of any evidence proposed to be tendered at the hearing by any party:

(k) require further or better particulars of any matters connected with the proceedings:

(l) adjourn the conference to allow for consultations among the parties:

(m) give such further or other directions as he or she considers necessary.

(4) The member of the court presiding at any conference under subsection (1)—

(a) shall ensure that the parties are given an opportunity to make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them; and

(b) with a view to such special order (if any) as to costs as may be just being made at the hearing, may cause a record to be made, in such form as the member may direct, of any refusal to make any admission or agreement.

Section 267(1): replaced, on 19 April 2017, by section 101 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 267(1A): inserted, on 19 April 2017, by section 101 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 267(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 267(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 267(3)(e): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 267(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 268 Alternative dispute resolution

(1) At any time after proceedings are lodged, the Environment Court may, for the purpose of facilitating the resolution of any matter, ask a member of the Environment Court or another person to conduct an ADR process before or at any time during the course of a hearing.

(2) The Environment Court may act under this section on its own motion or on request.

(3) A member of the Environment Court who conducts an ADR process is not disqualified from resuming his or her role to decide a matter if—

(a) the parties agree that the member should resume his or her role and decide the matter; and

(b) the member concerned and the court are satisfied that it is appropriate for him or her to do so.

(4) In this section and section 268A, **ADR process** means an alternative dispute resolution process (for example, mediation) designed to facilitate the resolution of a matter.

Section 268: replaced, on 19 April 2017, by section 102 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 268A Mandatory participation in alternative dispute resolution processes

(1) This section applies to an ADR process conducted under section 268.

(2) Each party to the proceedings must participate in the ADR process in person or by a representative, unless leave is granted under this section.

(3) Each person required to participate in an ADR process must—

(a) be present in person; or

(b) have at least 1 representative present who has the authority to make decisions on behalf of the person represented on any matters that may reasonably be expected to arise in the ADR process.

(4) A party to the proceedings may apply to the Environment Court for leave not to participate in the ADR process.

(5) The Environment Court may grant leave if it considers that it is not appropriate for the party to participate in the ADR process.

Section 268A: inserted, on 19 April 2017, by section 102 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Procedure and powers*

### 269 Court procedure

(1) Except as expressly provided in this Act, the Environment Court may regulate its own proceedings in such manner as it thinks fit.

(1A) However, the Environment Court must regulate its proceedings in a manner that best promotes their timely and cost-effective resolution.

(2) Environment Court proceedings may be conducted without procedural formality where this is consistent with fairness and efficiency.

(3) The Environment Court shall recognise tikanga Maori where appropriate.

(4) The Environment Court may use or allow the use in any proceedings, or conference under section 267, of any telecommunication facility which will assist in the fair and efficient determination of the proceedings or conference.

Section 269 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 269(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 269(1A): inserted, on 4 September 2013, by section 44 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 269(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 269(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 269(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 270 Hearing matters together

(1) The Environment Court shall hear together 2 or more proceedings relating to the same subject matter unless in the court's opinion it is impractical, unnecessary, or undesirable.

(2) Subsection (1) applies whenever the Environment Court has jurisdiction to hear the proceedings, whether or not they arise under this Act or another Act or regulation or a combination of Acts and regulations.

Section 270(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 270(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 271 Local hearings

The Environment Court shall conduct any conference or hearing at a place as near to the locality of the subject matter to which the proceedings relate as the court considers convenient unless the parties otherwise agree.

Section 271: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 271A Submitter may be party to proceedings

*[Repealed]*

Section 271A: repealed, on 1 August 2003, by section 75 of the Resource Management Amendment Act 2003 (2003 No 23).

### 272 Hearing of proceedings

(1) The Environment Court shall hear and determine all proceedings as soon as practicable after the date on which the proceedings are lodged with it unless, in the circumstances of a particular case, it is not considered appropriate to do so.

(2) The time and place of hearing of proceedings before the court shall be fixed by the Registrar in accordance with regulations made under this Act.

(3) The Registrar shall give not less than 15 working days notice of the time and place fixed for a hearing to every party to the proceedings concerned, except that an Environment Judge may reduce that period in any particular case if he or she thinks fit.

(4) If a person who has initiated proceedings before the court fails without sufficient cause to appear before the court at the time and place fixed for the hearing, the court may dismiss the proceedings.

Section 272(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 272(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 272(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 272(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 273 Successors to parties to proceedings

(1) Proceedings brought before the Environment Court shall be deemed to be also brought on behalf of the personal representatives of the person bringing the same and on behalf of the successors, if any, to the rights or interests affected thereby.

(2) Every party appearing in proceedings before the Environment Court shall be deemed to do so also on behalf of the party's personal representatives and the successors, if any, to the rights or interests affected thereby.

Section 273(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 273(1): amended, on 2 September 1996, by section 12 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 273(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 273(2): amended, on 2 September 1996, by section 12 of the Resource Management Amendment Act 1996 (1996 No 160).

### 274 Representation at proceedings

(1) The following persons may be a party to any proceedings before the Environment Court:

(a) the Minister:

(b) a local authority:

(c) the Attorney-General representing a relevant aspect of the public interest:

(d) a person who has an interest in the proceedings that is greater than the interest that the general public has, but the person's right to be a party is limited by section 308C if the person is a person A as defined in section 308A and the proceedings are an appeal against a decision under this Act in favour of a person B as defined in section 308A:

(da) a person who has an interest in the proceedings that is greater than the interest that the general public has, but the person's right to be a party is limited by section 308CA if the person is person A as defined in section 308A and the proceedings are for an application for a resource consent or a notice of requirement by person B as defined in section 308A:

(e) a person who made a submission to which the following apply:

(i) it was made about the subject matter of the proceedings; and

(ii) section 308B(2) and clauses 6(4) and 29(1B) of Schedule 1 were irrelevant to it:

(f) a person who made a submission to which the following apply:

(i) it was made about the subject matter of the proceedings; and

(ii) section 308B(2) or clauses 6(4) or 29(1B) of Schedule 1 was relevant to it; and

(iii) it was made in compliance with whichever of section 308B(2) or clauses 6(4) or 29(1B) of Schedule 1 was relevant to it.

(2) A person described in subsection (1) may become a party to the proceedings by giving notice within 15 working days after—

(a) the period for lodging a notice of appeal ends, if the proceedings are an appeal:

(b) the decision to hold an inquiry, if the proceedings are an inquiry:

(c) the proceedings are commenced, in any other case.

(2A) A notice given under subsection (2) must be given to—

(a) the Environment Court; and

(b) the relevant local authority; and

(c) the appellant, in the case of an appeal, or the person who commenced proceedings, in any other case.

(2B) The person giving notice under subsection (2) must, no later than 5 working days after the deadline for giving that notice, give the same notice to all other parties.

(3) The notice given under subsection (2) must state—

(a) the proceedings in which the person has an interest; and

(b) whether the person supports or opposes the proceedings and the reasons for that support or opposition; and

(c) if applicable, the grounds for seeking representation under subsection (1)(c) or (d); and

(d) an address for service.

(4) A person who becomes a party to the proceedings under this section may appear and call evidence in accordance with subsections (4A) and, if relevant, (4B).

(4A) Evidence must not be called under subsection (4) unless it is on matters within the scope of the appeal, inquiry, or other proceeding.

(4B) However, in the case of a person described in subsection (1)(e) or (f), evidence may be called only if it is both—

(a) within the scope of the appeal, inquiry, or other proceeding; and

(b) on matters arising out of that person's submissions in the previous related proceedings or on any matter on which that person could have appealed.

(5) A person who becomes a party to the proceedings under this section may not oppose the withdrawal or abandonment of the proceedings unless the proceedings were brought by a person who made a submission in the previous proceedings on the same matter.

(6) For the purposes of determining whether a person has an interest in proceedings greater than the interest that the general public has, the Environment Court must have regard to every relevant statutory acknowledgment (within the meaning of an Act specified in Schedule 11) in accordance with the provisions of the relevant Act in that schedule.

(7) Subsections (2) to (2B) are subject to section 281.

Section 274: replaced, on 1 August 2003, by section 76 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 274(1): replaced, on 1 October 2009, by section 128(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 274(1)(da): inserted, on 4 September 2013, by section 45(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 274(2): replaced, on 1 October 2009, by section 128(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 274(2): amended, on 4 September 2013, by section 45(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 274(2A): inserted, on 4 September 2013, by section 45(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 274(2B): inserted, on 4 September 2013, by section 45(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 274(3)(b): amended, on 1 October 2009, by section 128(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 274(4): replaced, on 10 August 2005, by section 99 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 274(4A): inserted, on 10 August 2005, by section 99 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 274(4B): inserted, on 10 August 2005, by section 99 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 274(4B): amended, on 1 October 2009, by section 128(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 274(6): amended, on 1 October 2009, by section 128(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 274(7): replaced, on 4 September 2013, by section 45(4) of the Resource Management Amendment Act 2013 (2013 No 63).

## 275 Personal appearance or by representative

A person who has a right to appear or is allowed to appear before the Environment Court may appear in person or be represented by another person.

Section 275: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## 276 Evidence

(1) The Environment Court may—

(a) receive anything in evidence that it considers appropriate to receive; and

(b) call for anything to be provided in evidence which it considers will assist it to make a decision or recommendation; and

(c) call before it a person to give evidence who, in its opinion, will assist it in making a decision or recommendation.

(1A) The court may, whether or not the parties consent,—

(a) accept evidence that was presented at a hearing held by the consent authority under section 39:

(b) direct how evidence is to be given to the court.

(2) The Environment Court is not bound by the rules of law about evidence that apply to judicial proceedings.

(3) The Environment Court may receive evidence written or spoken in Maori and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 shall apply accordingly.

(4) This section applies subject to section 277A.

Section 276(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 276(1A): inserted, on 10 August 2005, by section 100 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 276(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 276(3): amended, on 30 April 2016, by section 50 of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 (2016 No 17).

Section 276(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 276(4): inserted, on 19 April 2017, by section 103 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 276A Evidence of documents

A copy of, or extract from, a policy statement or plan, certified to be a true copy by the principal administrative officer or by any other authorised officer of the relevant local authority, is admissible in evidence in legal proceedings to the same extent as the original document.

Section 276A: inserted, on 1 August 2003, by section 77 of the Resource Management Amendment Act 2003 (2003 No 23).

### 277 Hearings and evidence generally to be public

(1) All hearings of the Environment Court shall be held in public except as provided in subsection (2).

(2) The Environment Court may—

(a) order that any evidence be heard in private:

(b) prohibit or restrict the publication of any evidence—

if it considers that the reasons for doing so outweigh the public interest in a public hearing and publication of evidence.

Section 277(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 277(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 277A Powers of Environment Court in relation to evidence heard on appeal by way of rehearing

(1) This section applies to an appeal brought by way of a rehearing under clause 60 of Schedule 1.

(2) In conducting the appeal, the Environment Court has full discretion to rehear all or any part of the evidence received by the local authority or panel whose decision is the subject of the appeal.

(3) The Environment Court must rehear the evidence of a witness if the court has reason to believe that the record of evidence of that person made by direction of the local authority or panel is or may be incomplete in any material way.

(4) A party to the appeal may introduce new evidence with the leave of the Environment Court.

(5) The Environment Court may grant leave under subsection (4), but only if it considers that the proposed new evidence was not able to be produced at the hearing conducted by the local authority or panel.

Section 277A: inserted, on 19 April 2017, by section 104 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 278 Environment Court has powers of District Court

(1) The Environment Court and Environment Judges have the same powers that the District Court has in the exercise of its civil jurisdiction, including, without limitation, the power to commission a report from an independent expert on any matter raised in an appeal, as provided for by subpart 4 of Part 9 of the District Court Rules 2014.

(1A) Despite rule 9.31 of the District Court Rules 2014, an independent expert from whom a report is commissioned under subsection (1) must be available to be cross-examined by any party.

(2) An application for an order for discovery or production of documents may be made only with the leave of an Environment Judge.

(3) If the Registrar is directed to do so by an Environment Judge, the Registrar may act on behalf of the Environment Court or an Environment Judge in doing any act preliminary or incidental to any proceedings, including—

(a) the issuing of summonses requiring the attendance of witnesses; and

(b) the making of an order for the production of documents; and

(c) the convening of a conference under section 267.

(4) An order made by the Registrar under subsection (3) or an application granted under section 281 must be treated as if it were an order of the Environment Court.

(5) The Registrar may take a statutory declaration or an affidavit.

Section 278 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 278 heading: amended, on 2 September 1996, by section 14 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 278(1): replaced, on 2 September 1996, by section 14 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 278(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 278(1): amended, on 10 August 2005, by section 101(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 278(1A): inserted, on 10 August 2005, by section 101(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 278(1A): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 278(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 278(3): replaced, on 10 August 2005, by section 101(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 278(4): inserted, on 10 August 2005, by section 101(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 278(5): inserted, on 10 August 2005, by section 101(3) of the Resource Management Amendment Act 2005 (2005 No 87).

### 279 Powers of Environment Judge sitting alone

(1) An Environment Judge sitting alone may make any of the following orders:

(a) an order in the course of proceedings:

(b) an order that is not opposed:

(c) an order in respect of a matter which the parties to the proceedings agree should be heard and decided by an Environment Judge sitting alone:

(d) an order giving directions as to service of anything:

(e) an order in any proceedings when the matter at issue is substantially a question of law only:

(f) an order made on the application of a party to proceedings directing that any proceedings should be heard and decided by an Environment Judge sitting alone because the matter at issue is substantially a question of law only:

(fa) an order, in any proceedings where questions of law and other matters are raised, directing that any proceedings should be heard and decided by 1 Environment Judge and 1 Environment Commissioner sitting together:

(g) an order as to costs:

(h) an order made on an application for a rehearing:

(i) an order on any appeal against any requirement to pay an administrative charge:

(j) a declaration relating to any inconsistency between a plan and a policy statement:

(k) an order directing that any determination under section 91 (deferral pending application for additional consents) be revoked.

(2) An Environment Judge sitting alone may—

(a) exercise any powers conferred by the Chief Environment Court Judge that could have been conferred on an Environment Commissioner under section 280; and

(b) waive a requirement or give a direction under section 281.

(3) An Environment Judge sitting alone may, having regard to the matters set out in section 42 and to such other matters as the Environment Judge thinks fit,—

(a) on an application made under section 42(4), and on such terms as the Judge thinks fit, make an order cancelling or varying any order made by a local authority under that section:

(b) on an application made under section 42(5), and on such terms as the Judge thinks fit, make an order described in section 42(2) and having the same effect as an order made under section 42:

(c) on an application made at any stage of proceedings before the Environment Court, and on such terms as the Judge thinks fit, make an order described in section 42(2) and having the same effect as an order made under section 42—

or may decline to make any such order.

(4) An Environment Judge sitting alone may, at any stage of the proceedings and on such terms as the Judge thinks fit, order that the whole or any part of that person's case be struck out if the Judge considers—

(a) that it is frivolous or vexatious; or

(b) that it discloses no reasonable or relevant case in respect of the proceedings; or

(c) that it would otherwise be an abuse of the process of the Environment Court to allow the case to be taken further.

(5) In the case of an appeal under section 120, in addition to exercising the powers conferred by subsections (1) to (4), an Environment Judge sitting alone may—

(a) exercise any other powers of the Environment Court that may be conferred by the Chief Environment Court Judge either generally or in relation to a particular matter; and

(b) exercise those powers on any terms and conditions that the Chief Environment Court Judge may think fit.

Section 279 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279 heading: amended, on 7 July 1993, by section 134 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 279(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(1)(f): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(1)(fa): inserted, on 7 July 1993, by section 134 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 279(1)(fa): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(1)(fa): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(2)(a): amended, on 1 July 2020, by section 78 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 279(2)(a): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(3)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(4): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(4)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 279(5): inserted, on 19 April 2017, by section 105 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 279(5)(a): amended, on 1 July 2020, by section 78 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 279(5)(b): amended, on 1 July 2020, by section 78 of the Resource Management Amendment Act 2020 (2020 No 30).

### 280 Powers of Environment Commissioner sitting without Environment Judge

(1) An Environment Commissioner or Environment Commissioners sitting without an Environment Judge may exercise such powers as may be conferred by the Chief Environment Court Judge either generally or in relation to a particular matter, and on such terms and conditions as the Chief Environment Court Judge may think fit, including a power to—

(a) issue summonses requiring the attendance of witnesses; and

(b) convene a conference under section 267.

(1AA) If proceedings relate to an appeal under section 120, 1 or more Environment Commissioners sitting without an Environment Judge may,—

(a) in relation to a particular matter, exercise any of the powers conferred by section 279(1) to (4) on an Environment Judge sitting alone that may be conferred by the Environment Judge after a conference held under section 267 in relation to that matter; and

(b) exercise the powers referred to in paragraph (a) on any terms and conditions that the Environment Judge may think fit.

(1A) *[Repealed]*

(1B) An Environment Commissioner may take a declaration or an affidavit.

(2) Any party may, within 15 working days of the exercise of any power under this section, apply in writing to an Environment Judge for leave to make an application for a review of the exercise of that power by a fully constituted Environment Court.

(3) If leave is granted by an Environment Judge, the party may, within a further 7 working days, apply in writing for a review of the exercise of that power by a fully constituted Environment Court.

(4) The Environment Court, on any such review, may substitute or set aside the Environment Commissioner's decision and make such further or other orders as the case may require.

Section 280 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280 heading: amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280(1): replaced, on 10 August 2005, by section 102 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 280(1): amended, on 1 July 2020, by section 79 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 280(1AA): inserted, on 19 April 2017, by section 106(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 280(1A): repealed, on 19 April 2017, by section 106(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 280(1B): inserted, on 10 August 2005, by section 102 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 280(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280(2): amended, on 2 September 1996, by section 15(3) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 280(4): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

## 281 Waivers and directions

(1) A person may apply to the Environment Court to—

(a) waive a requirement of this Act or another Act or a regulation about—

(i) the time within which anything shall be served; or

(ii) the time within which an appeal or submission to the Environment Court must be lodged; or

(iia) the time within which a person must give notice under section 274 that the person wishes to be a party to the proceedings; or

(iii) the method of service; or

(iv) the documents that shall be served; or

(v) the persons on whom anything shall be served; or

(vi) the information, or the accuracy of information, that shall be supplied; or

(b) give a direction about—

(i) the time within which or the method by which anything is to be served; or

(ii) what shall be served, whether or not the direction complies with this Act or any other Act or a regulation; or

(iii) the terms, including terms as to adjournment, costs, or other things, on which any information shall be supplied.

(2) The Environment Court shall not grant an application under this section unless it is satisfied that none of the parties to the proceedings will be unduly prejudiced.

(3) Without limiting subsection (2), the Environment Court shall not grant an application under this section to waive a requirement as to the time within which anything shall be lodged with the court (to which subsection (1)(a)(ii) applies) unless it is satisfied that—

(a) the appellant or applicant and the respondent consent to that waiver; or

(b) any of those parties who have not so consented will not be unduly prejudiced.

(4) Without limiting subsections (2) and (3), the Environment Court may waive a requirement as to time under this section whether or not an application is made under this section before the requirement has been breached.

(5) A Registrar may exercise a power in this section if conferred by the Chief Environment Court Judge either generally or in relation to a specific matter and, in either case, on such terms and conditions as the Chief Environment Court Judge thinks fit.

Section 281(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 281(1)(a)(ii): replaced, on 1 August 2003, by section 79 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 281(1)(a)(iia): inserted, on 1 August 2003, by section 79 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 281(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 281(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 281(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 281(5): inserted, on 10 August 2005, by section 103 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 281(5): amended, on 1 July 2020, by section 80 of the Resource Management Amendment Act 2020 (2020 No 30).

### 281A Registrar may waive, reduce, or postpone payment of fee

(1) A person may apply to the Registrar for a waiver, reduction, or postponement of the payment to the court of any fee prescribed by regulations made under this Act.

(2) The application must be made in the prescribed form (if any).

(3) The Registrar may waive, reduce, or postpone the payment of the fee only if the Registrar is satisfied, after applying any prescribed criteria, that—

(a) the person responsible for paying the fee is unable to pay the fee in whole or in part; or

(b) in the case of proceedings concerning a matter of public interest, the proceedings are unlikely to be commenced or continued if the powers are not exercised.

Section 281A: replaced, on 19 April 2017, by section 107 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 281B Review of exercise of power by Registrar

(1) A person directly affected by the exercise of a power by a Registrar may apply to an Environment Judge to reconsider the matter.

(2) The application must be by notice to the Registrar and other persons affected, within 10 working days after the Registrar's determination or action.

(3) The Environment Judge may confirm, modify, or reverse the decision of the Registrar.

Section 281B: inserted, on 10 August 2005, by section 104 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 281B(2): amended, on 4 September 2013, by section 46 of the Resource Management Amendment Act 2013 (2013 No 63).

### 282 Application of Contempt of Court Act 2019

(1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Environment Court.

(2) Those provisions apply to proceedings of the Environment Court as if—

(a) references to a court include the Environment Court; and

(b) references to a Judge include an Environment Judge and an Alternate Environment Judge; and

(c) references to a judicial officer include an Environment Commissioner and a Deputy Environment Commissioner; and

(d) references to an officer of the court include an officer of the Environment Court.

Section 282: replaced, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

### 283 Non-attendance or refusal to co-operate

(1) Except as provided in subsection (2), no person shall, without reasonable cause—

(a) fail to appear in accordance with a summons issued by an Environment Judge or an Environment Commissioner, or fail to produce anything that he or she is required to produce by such a summons; or

(b) refuse to be sworn or give evidence at proceedings before the court; or

(c) refuse to answer any questions put by a member of the court during proceedings before the court.

(2) A person need not comply with subsection (1) if he or she was not given travelling expenses in accordance with the scale for witnesses in civil cases under the District Court Act 2016 either—

(a) at the time the summons was served; or

(b) at some reasonable time before the hearing.

Section 283(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 283(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 283(1)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 283(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 283(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### 284 Witnesses' allowances

(1) A witness attending the Environment Court in accordance with a summons is entitled to be paid, by the party requiring his or her attendance, expenses for travelling and maintenance while absent from his or her usual residence.

(2) Payment of expenses shall be made in accordance with the scale of allowances for witnesses in civil cases under the District Court Act 2016.

(3) When a witness is called or evidence is obtained by the court, the court may direct that the expenses incurred—

(a) form part of the costs of the proceedings; or

(b) be paid from money appropriated by Parliament for the purpose.

Section 284(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 284(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 284(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 284A Security for costs

*[Repealed]*

Section 284A: repealed, on 1 October 2009, by section 129 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 285 Awarding costs

(1) The Environment Court may order any party to proceedings before it to pay to any other party the costs and expenses (including witness expenses) incurred by the other party that the court considers reasonable.

(2) Subsection (1) does not apply if the Environment Court makes an order under section 308H(2).

(3) The Environment Court may order any party to proceedings before it to pay to the Crown all or any part of the court's costs and expenses.

(4) Subsection (3) does not apply if the Environment Court makes an order under section 308H(3).

(5) In proceedings under section 87G, 149T, 198E, or 198K, the Environment Court must,—

(a) when deciding whether to make an order under subsection (1) or (3),—

(i) apply a presumption that costs under subsections (1) and (3) are not to be ordered against a person who is a party under section 274(1); and

(ii) apply a presumption that costs under subsection (3) are to be ordered against the applicant; and

(b) when deciding on the amount of any order it decides to make, have regard to the fact that the proceedings are at first instance.

(6) The Environment Court may order a party who fails to proceed with a hearing at the time the court arranges, or who fails to give adequate notice of the abandonment of the proceedings, to pay to any other party or to the Crown any of the costs and expenses incurred by the other party or the Crown.

(7) The Environment Court may order an applicant to pay the costs and expenses that a consent authority or a territorial authority incurred in assisting the court in relation to a report provided by the authority under section 87F, 165ZFE(6), 198D, or 198J and that the court considers reasonable.

(8) In deciding whether to make an order under subsection (7), the court must apply a presumption that such costs are to be ordered against the applicant.

Section 285: replaced, on 1 October 2009, by section 130 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 285(7): inserted, on 4 September 2013, by section 47 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 285(8): inserted, on 4 September 2013, by section 47 of the Resource Management Amendment Act 2013 (2013 No 63).

### 286 Enforcing orders for costs

An order for costs made by the Environment Court may be filed in the District Court at the office of the court named in the order and then becomes enforceable as a judgment of the District Court in its civil jurisdiction.

Section 286: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 286: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 287 Reference of questions of law to High Court

(1) The Environment Court may, in any proceedings before it, state a case for the opinion of the High Court on any question of law that arises in those proceedings; and for that purpose may either conclude the proceedings subject to that opinion, or adjourn them until after that opinion has been given.

(2) The case shall be settled and signed by an Environment Judge and sent to the Registrar at the appropriate registry of the High Court.

(3) The settling and signing of the case by an Environment Judge is deemed to be the statement of the case by the court.

(4) The Environment Court may, in relation to any case stated under this section, after giving notice to the parties of its intention to do so, request the Registrar at the appropriate registry of the High Court for a fixture for the determination of the case.

(5) For the purposes of this section, the **appropriate registry of the High Court** is the office of the High Court nearest to the place where the appeal, inquiry, or other proceedings was or is being conducted.

Section 287(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 287(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 287(2): amended, on 10 August 2005, by section 105(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 287(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 287(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 287(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 287(4): amended, on 10 August 2005, by section 105(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 287(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 287(5): replaced, on 10 August 2005, by section 105(3) of the Resource Management Amendment Act 2005 (2005 No 87).

### 288 Privileges and immunities

Witnesses and counsel appearing before the Environment Court have the same privileges and immunities as they have when they appear in the same capacity in proceedings in the District Court.

Section 288: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 288: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 288A Information regarding reserved judgments

The Chief Environment Court Judge must, in consultation with the Chief Justice,—

(a) publish information about the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and

(b) periodically publish information about the number of judgments of the court that he or she considers are outstanding beyond a reasonable time for delivery; and

(c) publish information about reserved judgments that he or she considers is useful.

Section 288A: inserted, on 1 March 2017, by section 8 of the Resource Management Amendment Act 2016 (2016 No 68).

Section 288A: amended, on 1 July 2020, by section 81 of the Resource Management Amendment Act 2020 (2020 No 30).

### 288B Recusal guidelines

The Chief Environment Court Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding.

Section 288B: inserted, on 1 March 2017, by section 8 of the Resource Management Amendment Act 2016 (2016 No 68).

Section 288B: amended, on 1 July 2020, by section 82 of the Resource Management Amendment Act 2020 (2020 No 30).

### 288C Judge may make order restricting commencement or continuation of proceeding

(1) A Judge may make an order restricting a person from commencing or continuing civil proceedings in the Environment Court.

(2) The order may have—

(a) a limited effect (a **limited order**); or

(b) an extended effect (an **extended order**).

(3) A limited order restrains a party from continuing or commencing civil proceedings on a particular matter in the Environment Court.

(4) An extended order restrains a party from continuing or commencing civil proceedings on a particular or related matter in the Environment Court.

(5) Nothing in this section limits the court's inherent power to control its own proceedings.

Section 288C: inserted, on 1 March 2017, by section 8 of the Resource Management Amendment Act 2016 (2016 No 68).

### 288D Grounds for making section 288C order

(1) A Judge may make a limited order under section 288C if, in proceedings about the same matter in the court, the Judge considers that at least 2 or more of the proceedings are or were totally without merit.

(2) A Judge may make an extended order under section 288C if, in at least 2 proceedings about any matter considered by the court, the Judge considers that the proceedings are or were totally without merit.

(3) In determining whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application, appeals, or criminal prosecutions involving the party to be restrained, but is not limited to those considerations.

(4) The proceedings concerned must be proceedings commenced or continued by the party to be restrained, whether against the same person or different persons.

(5) For the purpose of this section and sections 288E and 288F, an appeal in a civil proceeding must be treated as part of that proceeding and not as a distinct proceeding.

Section 288D: inserted, on 1 March 2017, by section 8 of the Resource Management Amendment Act 2016 (2016 No 68).

### 288E Terms of section 288C order

(1) An order made under section 288C may restrain a party from commencing or continuing any civil proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the court.

(2) An order made under section 288C, whether limited or extended, has effect for a period of up to 3 years as specified by the Judge, but the Judge making it may specify a longer period (which must not exceed 5 years) if he or she is satisfied that there are exceptional circumstances justifying the longer period.

Section 288E: inserted, on 1 March 2017, by section 8 of the Resource Management Amendment Act 2016 (2016 No 68).

### 288F Procedure and appeals relating to section 288C orders

(1) A party to any proceeding may apply for a limited order or an extended order.

(2) A Judge may make an order under section 288C (a **section 288C order**) either on an application under subsection (1) or on his or her own initiative.

(3) An application for leave to continue or commence a civil proceeding by a party subject to a section 288C order may be made without notice, but the court may direct that the application for leave be served on any specified person.

(4) An application for leave must be determined on the papers, unless the Judge considers that an oral hearing should be conducted because there are exceptional circumstances and it is appropriate to do so in the interests of justice.

(5) A Judge's determination of an application for leave is final.

(6) A section 288C order does not prevent or affect the commencement of a private criminal prosecution in any case.

(7) The party against whom a section 288C order is made may appeal against the order to the High Court.

(8) The appellant in an appeal under subsection (7) or the applicant for the section 288C order concerned may, with the leave of the High Court, appeal against the determination of that appeal to the Court of Appeal.

(9) A court determining an appeal under this section has the same powers as the court appealed from has to determine an application or appeal, as the case may be.

Section 288F: inserted, on 1 March 2017, by section 8 of the Resource Management Amendment Act 2016 (2016 No 68).

### *Appeals, inquiries, and other proceedings before Environment Court*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 289 Reply to appeal or request for inquiry

*[Repealed]*

Section 289: repealed, on 1 October 2009, by section 131 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 290 Powers of court in regard to appeals and inquiries

(1) The Environment Court has the same power, duty, and discretion in respect of a decision appealed against, or to which an inquiry relates, as the person against whose decision the appeal or inquiry is brought.

(2) The Environment Court may confirm, amend, or cancel a decision to which an appeal relates.

(3) The Environment Court may recommend the confirmation, amendment, or cancellation of a decision to which an inquiry relates.

(4) Nothing in this section affects any specific power or duty the Environment Court has under this Act or under any other Act or regulation.

Section 290 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 290(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 290(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 290(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 290(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 290AA Powers of court in regard to certain appeals under clause 14 of Schedule 1

The Environment Court, when hearing an appeal under clause 14(1) of Schedule 1 relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

Section 290AA: inserted, on 1 October 2009, by section 132 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 290A Environment Court to have regard to decision that is subject of appeal or inquiry

In determining an appeal or inquiry, the Environment Court must have regard to the decision that is the subject of the appeal or inquiry.

Section 290A: inserted, on 10 August 2005, by section 106 of the Resource Management Amendment Act 2005 (2005 No 87).

### 291 Other proceedings before court

(1) Except as otherwise provided in this Act, or any other Act, or regulation, every originating application to the Environment Court shall be made by notice of motion. The notice of motion shall specify the order sought, the grounds upon which the application is made, and the persons upon whom the notice is to be served. Every notice of motion shall be supported by an affidavit as to the matters giving rise to the application.

(2) The applicant shall as soon as reasonably practicable after lodging a notice of motion with the Registrar, serve copies of the notice and affidavit upon such persons, if any, as are parties to the application and advise the Registrar accordingly.

(3) An Environment Judge may at any time direct the applicant to serve a copy of the notice of motion and affidavit upon any other person.

(4) Every person upon whom a notice of motion has been served shall, if he or she desires to be heard on the application, within 15 working days after the date of service upon him or her, give written notice in the prescribed form to the Registrar and the applicant of his or her desire to be heard and of the matters he or she wishes to advance.

Section 291 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 291(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 291(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

*Court's powers in regard to plans and policy statements*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 292 Remedying defects in plans

(1) The Environment Court may, in any proceedings before it, direct a local authority to amend a regional plan or district plan to which the proceedings relate for the purpose of—

(a) remedying any mistake, defect, or uncertainty; or

(b) giving full effect to the plan.

(2) The local authority to whom a direction is made under subsection (1) shall comply with the direction without using the process in Schedule 1.

Section 292(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 292(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 293 Environment Court may order change to proposed policy statements and plans

(1) After hearing an appeal against, or an inquiry into, the provisions of any proposed policy statement or plan that is before the Environment Court, the court may direct the local authority to—

(a) prepare changes to the proposed policy statement or plan to address any matters identified by the court:

(b) consult the parties and other persons that the court directs about the changes:

(c) submit the changes to the court for confirmation.

(2) The court—

(a) must state its reasons for giving a direction under subsection (1); and

(b) may give directions under subsection (1) relating to a matter that it directs to be addressed.

(3) Subsection (4) applies if the Environment Court finds that a proposed policy statement or plan that is before the court departs from—

(a) a national policy statement:

(b) a New Zealand coastal policy statement:

(ba) a national planning standard:

(c) a relevant regional policy statement:

(d) a relevant regional plan:

(e) a water conservation order.

(4) The Environment Court may allow a departure to remain if it considers that it is of minor significance and does not affect the general intent and purpose of the proposed policy statement or plan.

(5) In subsections (3) and (4), **departs** and **departure** mean that a proposed policy statement or plan—

(a) does not give effect to a national policy statement, a New Zealand coastal policy statement, a national planning standard, or a relevant regional policy statement; or

(b) is inconsistent with a relevant regional plan or water conservation order.

Section 293: replaced, on 10 August 2005, by section 107 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 293 heading: amended, on 1 October 2009, by section 133(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 293(1): amended, on 1 October 2009, by section 133(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 293(1)(a): amended, on 1 October 2009, by section 133(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 293(3): amended, on 1 October 2009, by section 133(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 293(3)(b): amended, on 19 April 2017, by section 108(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 293(3)(ba): inserted, on 19 April 2017, by section 108(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 293(4): amended, on 1 October 2009, by section 133(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 293(5): amended, on 1 October 2009, by section 133(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 293(5)(a): amended, on 19 April 2017, by section 108(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 293A Determinations on recognition orders and agreements made under Marine and Coastal Area (Takutai Moana) Act 2011

(1) This section applies to a determination made by the Environment Court on—

(a) an appeal relating to—

(i) a submission made in reliance on section 85B(1)(a):

(ii) a request made in reliance on section 85B(1)(b):

(b) an application made under section 85B(1)(c).

(2) The Environment Court must—

(a) determine the matters referred to in subsection (1) in accordance with clause 15 of Schedule 1; and

(b) consider the matters set out in section 85B(2).

(3) An application made under section 85B(1)(c) must be—

(a) made in accordance with section 291; and

(b) without limiting the discretion as to service under section 291, served on every relevant local authority.

Section 293A: inserted, on 17 January 2005, by section 29 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 293A heading: replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 294 Review of decision by court

(1) Where, after any decision has been given by the Environment Court, new and important evidence becomes available or there has been a change in circumstances that in either case might have affected the decision, the court shall have power to order a rehearing of the proceedings on such terms and conditions as it thinks reasonable.

(2) Any party may apply to the court on any of those grounds for a rehearing of the proceedings; and in any such case the court, after notice to the other parties concerned and after hearing such evidence as it thinks fit, shall determine whether and (if so) on what conditions the proceedings shall be reheard.

(3) The decision of the court on any such proceedings shall have the same effect as a decision of the court on the original proceedings.

Section 294 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 294(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 294(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 294(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## *Decisions of Environment Court*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 295 Environment Court decisions are final

A decision of the Environment Court under this Act, or another Act, or regulation, on any matter other than an inquiry, is final unless it is reheard under section 294 or appealed under section 299.

Section 295 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 295: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 296 No review of decisions unless right of appeal or reference to inquiry exercised

If there is a right to refer any matter for inquiry to the Environment Court or to appeal to the court against a decision of a local authority, consent authority or any person under this Act or under any other Act or regulation—

(a) no application for review under the Judicial Review Procedure Act 2016 may be made; and

(b) no proceedings seeking a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision, may be heard by the High Court—

unless the right has been exercised by the applicant in the proceedings and the court has made a decision.

Section 296: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 296(a): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

### 297 Decisions of court to be in writing

Every decision, determination, or order of the Environment Court, unless it is pronounced orally at a sitting of the court, and every report, recommendation, or determination made by the court on an inquiry, shall be in writing signed by the member who presided at the hearing or inquiry or by a majority of the members who sat on the hearing or inquiry and shall be authenticated with the seal of the court.

Section 297 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 297: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 298 Documents judicially noticed

The Environment Court shall continue to have a seal, and a document to which the seal of the court has been affixed shall be judicially noticed.

Section 298: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## *Appeals from Environment Court decisions*

Heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 299 Appeal to High Court on question of law

(1) A party to a proceeding before the Environment Court under this Act or any other enactment may appeal on a question of law to the High Court against any decision, report, or recommendation of the Environment Court made in the proceeding.

(2) The appeal must be made in accordance with the High Court Rules 2016, except to any extent that those rules are inconsistent with sections 300 to 307.

Section 299: replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 299(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 299(2): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

### 300 Notice of appeal

(1) An appellant shall file a notice of appeal within 15 working days after the date on which the appellant is notified of the Environment Court's decision or report and recommendation.

(2) The appeal shall be filed with the Registrar of the High Court.

(3) Within the time specified in subsection (1) the appellant shall serve a copy of the notice on the authority whose decision was the subject of the Environment Court's decision or report and recommendation.

(4) Before or within 5 working days after the appeal is filed the appellant shall serve a copy of the notice on—

(a) every other party to the proceedings or any person who appeared before the Environment Court; and

(b) the Registrar of the Environment Court.

(5) The notice of appeal shall specify—

(a) the decision or report and recommendation, or part of the decision or report and recommendation, appealed against; and

(b) the error of law alleged by the appellant; and

(c) the question of law to be resolved; and

(d) the grounds of appeal with sufficient particularity for the court and other parties to understand them; and

(e) the relief sought.

(6) The Registrar of the Environment Court shall send a copy of the whole of the decision appealed against to the Registrar of the High Court as soon as reasonably practicable after receiving the notice of appeal.

Section 300(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 300(2): amended, on 10 August 2005, by section 109(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 300(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 300(4)(a): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 300(4)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 300(5)(d): amended, on 2 September 1996, by section 17(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 300(5)(e): inserted, on 2 September 1996, by section 17(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 300(6): amended, on 10 August 2005, by section 109(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 300(6): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 301 Right to appear and be heard on appeal

(1) A party to any proceedings or any person who appeared before the Environment Court, who wishes to appear on an appeal to the High Court shall give notice of intention to appear to—

(a) the appellant; and

(b) the Registrar of the High Court; and

(c) the Registrar of the court; and

(d) when the decision or report and recommendation was made by the court after an appeal to it, the authority whose decision was appealed.

(2) The notice to appear under subsection (1) shall be served within 10 working days after the party was served with the notice of appeal.

Section 301(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 301(1)(b): amended, on 10 August 2005, by section 110 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 301(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 301(1)(d): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 302 Parties to the appeal before the High Court

(1) The parties to an appeal before the High Court are the appellant and any person who gives notice of intention to appear under section 301.

(2) The Registrar of the High Court shall ensure that the parties to an appeal before the High Court are served with—

(a) every document which is filed or lodged with the Registrar of the High Court which relates to the appeal; and

(b) notice of the date set down for hearing the appeal.

Section 302(2)(a): amended, on 10 August 2005, by section 111 of the Resource Management Amendment Act 2005 (2005 No 87).

### 303 Orders of the High Court

(1) The High Court may, on application to it or on its own motion, make an order directing the Environment Court to lodge with the Registrar of the High Court any or all of the following things:

(a) anything in the possession of the court:

(b) a report recording, in respect of any matter or issue the High Court may specify, any of the findings of fact of the court which are not set out in its decision or report and recommendation:

(c) a report setting out, so far as is reasonably practicable and in respect of any issue or matter the order may specify, any reasons or considerations to which the court had regard but which are not set out in its decision or report and recommendation.

(2) An application under subsection (1) shall be made—

(a) in the case of the appellant, within 20 working days after the date on which the notice of appeal is lodged; or

(b) in the case of any other party to the appeal, within 20 working days after the date of the service on him or her of a copy of the notice of appeal.

(3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of a question of law so requires; and the order may be made subject to such conditions as the High Court thinks fit.

Section 303(1): amended, on 10 August 2005, by section 112 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 303(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 303(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 303(1)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 303(1)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 303(1)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 303(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 304 Dismissal of appeal

The High Court may dismiss an appeal if—

(a) the appellant does not appear at the hearing of the appeal; or

(b) the appellant does not proceed with the appeal with due diligence and another party applies to the court to dismiss the appeal.

### 305 Additional appeals on questions of law

(1) When a party to an appeal other than the appellant wishes to contend that the decision or report and recommendation of the Environment Court is in error on other questions of law, that party may lodge a notice to that effect with the Registrar of the High Court.

(2) The notice under subsection (1) shall be lodged within 20 working days of the date on which the respondent is served with a copy of the notice of appeal.

(3) Sections 299, 300(3) and (4), 303, and 304 apply to a notice lodged under subsection (1) with all necessary modifications.

Section 305 heading: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 305(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 305(1): amended, on 10 August 2005, by section 113 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 305(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 306 Extension of time

On the application of a party to an appeal, the High Court may extend any period of time stated in sections 299 to 301, 303, and 305.

### 307 Date of hearing

When a party to an appeal notifies the Registrar of the High Court—

(a) that the notice of appeal has been served on all parties to the proceedings; and

(b) either—

(i) that no application has been lodged under section 303; or

(ii) that any application lodged under section 303 has been complied with—

the appeal is ready for hearing and the Registrar shall arrange a hearing date as soon as practicable.

Section 307: amended, on 10 August 2005, by section 114 of the Resource Management Amendment Act 2005 (2005 No 87).

### 308 Appeals to the Court of Appeal

(1) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to a decision of the High Court under section 299 as if the decision had been made under section 300 of that Act.

(2) Subsection (1) does not apply to appeals against a determination of the High Court under section 299 if that determination related to a decision of the Environment Court under section 149U. Instead, section 149V(3) to (7) apply.

Section 308(1): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 308(2): inserted, on 1 October 2009, by section 134 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

# Part 11A
# Act not to be used to oppose trade competitors

Part 11A: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 308A Identification of trade competitors and surrogates

In this Part,—

(a) **person A** means a person who is a trade competitor of person B:

(b) **person B** means the person of whom person A is a trade competitor:

(c) **person C** means a person who has knowingly received, is knowingly receiving, or may knowingly receive direct or indirect help from person A—

(i) to bring an appeal or be a party to an appeal against a decision under this Act in favour of person B:

(ii) to be a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.

Section 308A: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 308A(c): replaced, on 4 September 2013, by section 48 of the Resource Management Amendment Act 2013 (2013 No 63).

## 308B Limit on making submissions

(1) Subsection (2) applies when person A wants to make a submission under section 96 about an application by person B.

(2) Person A may make the submission only if directly affected by an effect of the activity to which the application relates, that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(3) Failure to comply with the limits on submissions set in section 149E or 149O or Schedule 1 is a contravention of this Part.

Section 308B: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 308B(3): amended, on 19 April 2017, by section 109 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 308C Limit on representation at appeals

(1) This section applies when person A wants to be a party under section 274 to an appeal to the Environment Court against a decision under this Act in favour of person B, on the ground that person A has an interest in the proceedings that is greater than the interest that the general public has.

(2) Person A may be a party to the appeal only if directly affected by an effect of the subject matter of the appeal that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

Section 308C: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 308CA Limit on representation at proceedings as party under section 274

(1) This section applies when person A wants to be a party under section 274 to a proceeding before the Environment Court under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K on the ground that person A has an interest in the proceedings that is greater than the interest that the general public has.

(2) Person A may be a party to the proceeding only if directly affected by an effect of the subject matter of the proceeding that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

Section 308CA: inserted, on 4 September 2013, by section 49 of the Resource Management Amendment Act 2013 (2013 No 63).

### 308D Limit on appealing under this Act

Person A must not bring an appeal, or be a party to an appeal, under this Act, or become a party to a proceeding under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K, for any of the following purposes:

(a) protecting person A from trade competition:

(b) preventing person B from engaging in trade competition:

(c) deterring person B from engaging in trade competition.

Section 308D: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 308D: amended, on 4 September 2013, by section 50 of the Resource Management Amendment Act 2013 (2013 No 63).

### 308E Prohibition on using surrogate

Person A must not, for any of the purposes in section 308D, directly or indirectly help person C—

(a) to bring an appeal, or be a party to an appeal, against a decision under this Act in favour of person B:

(b) to be a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.

Section 308E: replaced, on 4 September 2013, by section 51 of the Resource Management Amendment Act 2013 (2013 No 63).

### 308F Surrogate must disclose status

Person C must tell the court if person C—

(a) appears before the court—

(i) as the appellant, or as a party to an appeal, against a decision under this Act in favour of person B:

(ii) as a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K; and

(b) has knowingly received, is knowingly receiving, or may knowingly receive direct or indirect help from person A to bring the appeal or be a party to the appeal, or to be a party to the proceeding, for any of the purposes in section 308D.

Section 308F: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 308F(a): replaced, on 4 September 2013, by section 52(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 308F(b): amended, on 4 September 2013, by section 52(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 308G Declaration that Part contravened

(1) Proceedings may be brought in the Environment Court for a declaration that person A or person C—

(a) contravened any of the provisions in this Part:

(b) aided, abetted, counselled, induced, or procured the contravention of any of the provisions in this Part:

(c) conspired with any other person in the contravention of any of the provisions in this Part:

(d) was in any other way knowingly concerned in the contravention of any of the provisions in this Part.

(2) The proceedings may be brought by any person (other than person A or person C) who was—

(a) a party to an appeal against a decision under this Act in favour of person B; or

(b) a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.

(3) The proceedings must not be commenced until the appeal or proceedings referred to in subsection (2) are determined.

(4) The proceedings must be commenced within 6 years after the contravention.

(5) The Environment Court may make the declaration.

Section 308G: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 308G(2): replaced, on 4 September 2013, by section 53 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 308G(3): replaced, on 4 September 2013, by section 53 of the Resource Management Amendment Act 2013 (2013 No 63).

### 308H Costs orders if declaration made

(1) This section applies if the Environment Court makes a declaration under section 308G.

(2) The Environment Court must make an order that the party against whom it makes the declaration pay to any other party an amount for costs and expenses that the court must calculate by—

(a) totalling all the costs and expenses (including witness expenses) that the other party incurred because the party against whom the declaration is made contravened the provision in this Part; and

(b) deducting from the total any amount for costs and expenses (including witness expenses) that the party against whom the declaration is made has paid to the other party in previous proceedings on the same matter.

(3) The Environment Court must make an order that the party against whom it makes the declaration pay to the Crown an amount for costs and expenses that the court must calculate by—

(a) totalling all the costs and expenses incurred by the court because the party against whom the declaration is made contravened the provision in this Part; and

(b) deducting from the total any amount for costs and expenses that the party against whom the declaration is made has paid to the Crown in previous proceedings on the same matter.

(4) The court may decline to make an order under subsection (2) or (3) only if the court considers that the order should not be made because the circumstances are exceptional. If the court declines to make an order under subsection (2) or (3), it may make an order under section 285(1) or (3).

(5) If the court makes a declaration against person C, it must also make an order that person A not directly or indirectly reimburse person C for the costs and expenses that the court has ordered person C to pay.

Section 308H: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 308I Proceedings for damages in High Court

(1) A person who obtains a declaration under section 308G may bring proceedings for damages in the High Court against the person against whom the Environment Court made the declaration.

(2) The proceedings must be brought in accordance with the High Court Rules 2016.

(3) The proceedings must be commenced within 6 years after the declaration is made.

(4) The High Court must order the payment of damages for loss suffered by the plaintiff because of the conduct of the defendant that gave rise to the making of the declaration.

Section 308I: inserted, on 1 October 2009, by section 135 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 308I(2): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

## Part 12
## Declarations, enforcement, and ancillary powers

### 309 Proceedings to be heard by an Environment Judge

(1) All proceedings under sections 310 to 319, and 321 to 325 (which relate to declarations, enforcement orders, and abatement notices) shall be heard by an Environment Judge sitting alone or by the Environment Court.

(2) Proceedings under section 320 (which relates to interim enforcement orders) shall be heard either by an Environment Judge sitting alone or—

(a) in the District Court; and

(b) except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is an Environment Judge.

(3) All proceedings under section 338 (which relates to offences) shall be heard—

(a) in the District Court; and

(b) except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is also an Environment Judge.

(4) This Part does not apply to a protected customary right.

(5) However, sections 310 to 313 and sections 330 to 331 apply to the exercise of a protected customary right.

Section 309 heading: amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 309(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 309(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 309(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 309(2)(b): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 309(3)(b): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 309(4): inserted, on 17 January 2005, by section 30 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 309(4): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 309(5): inserted, on 17 January 2005, by section 30 of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 309(5): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## *Declarations*

### 310 Scope and effect of declaration

A declaration may declare—

(a) the existence or extent of any function, power, right, or duty under this Act, including (but, except as expressly provided, without limitation)—

(i) any duty under this Act to prepare and have particular regard to an evaluation report or to undertake and have particular regard to a further evaluation or imposed by section 32 or 32AA (other than any duty in relation to a plan or proposed plan or any provision of a plan or proposed plan); and

(ii) any duty imposed by section 55; or

(b) whether, contrary to section 62(3), a provision or proposed provision of a regional policy statement—

(i) does not, or is not likely to, give effect to a provision or proposed provision of a national policy statement or New Zealand coastal policy statement or a national planning standard; or

(ii) is, or is likely to be, inconsistent with a water conservation order; or

(ba) whether a provision or proposed provision of a regional plan,—

(i) contrary to section 67(3), does not, or is not likely to, give effect to a provision or proposed provision of a national policy statement, New Zealand coastal policy statement, or regional policy statement for the region or a relevant provision or proposed provision of a national planning standard; or

(ii) contrary to section 67(4), is, or is likely to be, inconsistent with a water conservation order, any other regional plan for the region, or a determination or reservation of the chief executive of the Minis-

try of Fisheries made under section 186E of the Fisheries Act 1996; or

(bb) whether a provision or proposed provision of a district plan,—

(i) contrary to section 75(3), does not, or is not likely to, give effect to a provision or proposed provision of a national policy statement, New Zealand coastal policy statement, or regional policy statement or a relevant provision or proposed provision of a national planning standard; or

(ii) contrary to section 75(4), is, or is likely to be, inconsistent with a water conservation order or a regional plan for any matter specified in section 30(1); or

(c) whether or not an act or omission, or a proposed act or omission, contravenes or is likely to contravene this Act, regulations made under this Act, or a rule in a plan or proposed plan, a requirement for a designation or for a heritage order, or a resource consent; or

(d) whether or not an act or omission, or a proposed act or omission, is a permitted activity, controlled activity, discretionary activity, non-complying activity, or prohibited activity, or breaches section 10 (certain activities protected) or section 20A (certain existing lawful activities allowed); or

(e) the point at which the landward boundary of the coastal marine area crosses any river; or

(f) whether or not a territorial authority has made and is continuing to make substantial progress or effort towards giving effect to a designation as required by section 184A; or

(g) the matters provided for in section 379 (provisions deemed to be plans or rules in plans); or

(h) any other issue or matter relating to the interpretation, administration, and enforcement of this Act, except for an issue as to whether any of sections 95 to 95G have been, or will be contravened.

Section 310(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 310(a)(i): amended, on 3 December 2013, for all purposes, by section 81 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 310(b): replaced, on 10 August 2005, by section 115(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 310(b)(i): amended, on 19 April 2017, by section 110(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 310(ba): inserted, on 10 August 2005, by section 115(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 310(ba)(i): amended, on 19 April 2017, by section 110(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 310(bb): inserted, on 10 August 2005, by section 115(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 310(bb)(i): amended, on 19 April 2017, by section 110(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 310(c): amended, on 1 August 2003, by section 82(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 310(d): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 310(e): amended, on 7 July 1993, by section 138(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 310(f): inserted, on 7 July 1993, by section 138(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 310(g): inserted, on 7 July 1993, by section 138(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 310(g): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 310(h): inserted, on 1 August 2003, by section 82(3) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 310(h): amended, on 4 September 2013, by section 54 of the Resource Management Amendment Act 2013 (2013 No 63).

## 311 Application for declaration

(1) Subject to subsections (2) and (3), any person may at any time apply to the Environment Court in the prescribed form for a declaration.

(2) No person (other than the consent authority, the EPA, or the Minister) may apply to the Environment Court for a declaration that a consent holder or any other person is contravening any condition of a resource consent or a rule in a plan or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the consent or rule relates.

(3) No person (other than a local authority, consent authority, or the Minister of Conservation) may apply to the Environment Court for a declaration under section 310(e).

Section 311(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 311(2): amended, on 1 July 2020, by section 83 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 311(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 311(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 311(3): amended, on 7 July 1993, by section 139 of the Resource Management Amendment Act 1993 (1993 No 65).

### 312 Notification of application

(1) The applicant for a declaration shall serve notice of the application in the prescribed form on every person directly affected by the application.

(2) Every notice required to be served under this section shall be served within 5 working days after the application is made to the court.

Section 312(1): amended, on 10 August 2005, by section 116(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 312(1): amended, on 7 July 1993, by section 140 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 312(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 313 Decision on application

After hearing the applicant, and any person served with notice of the application, and any other person who has the right to be represented at proceedings under section 274, who wishes to be heard, the court may—

(a) make the declaration sought by an application under section 311, with or without modification; or

(b) make any other declaration that it considers necessary or desirable; or

(c) decline to make a declaration.

Section 313: amended, on 17 December 1997, by section 50 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 313: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## *Enforcement orders*

### 314 Scope of enforcement order

(1) An enforcement order is an order made under section 319 by the Environment Court that may do any 1 or more of the following:

(a) require a person to cease, or prohibit a person from commencing, anything done or to be done by or on behalf of that person, that, in the opinion of the court,—

(i) contravenes or is likely to contravene this Act, any regulations, a rule in a plan, a rule in a proposed plan, a requirement for a designation or for a heritage order, or a resource consent, section 10 (certain existing uses protected), or section 20A (certain existing lawful activities allowed); or

(ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment:

(b) require a person to do something that, in the opinion of the court, is necessary in order to—

(i) ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan, a rule in a proposed plan, a requirement for a designation or for a heritage order, or a resource consent; or

(ii) avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by or on behalf of that person:

(c) require a person to remedy or mitigate any adverse effect on the environment caused by or on behalf of that person:

(d) require a person to pay money to or reimburse any other person for any actual and reasonable costs and expenses which that other person has incurred or is likely to incur in avoiding, remedying, or mitigating any adverse effect on the environment, where the person against whom the order is sought fails to comply with—

(i) an order under any other paragraph of this subsection; or

(ii) an abatement notice; or

(iii) a rule in a plan or a proposed plan or a resource consent; or

(iv) any of that person's other obligations under this Act:

(da) require a person to do something that, in the opinion of the court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment relating to any land of which the person is the owner or occupier:

(e) change or cancel a resource consent if, in the opinion of the court, the information made available to the consent authority by the applicant contained inaccuracies relevant to the enforcement order sought which materially influenced the decision to grant the consent:

(f) where the court determines that any 1 or more of the requirements of Schedule 1 have not been observed in respect of a policy statement or a plan, do any 1 or more of the following:

(i) grant a dispensation from the need to comply with those requirements:

(ii) direct compliance with any of those requirements:

(iii) suspend the whole or any part of the policy statement or plan from a particular date (which may be on or after the date of the order, but no such suspension shall affect any court order made before the date of the suspension order).

(2) For the purposes of subsection (1)(d), **actual and reasonable costs** include the costs of investigation, supervision, and monitoring of the adverse effect on the environment, and the costs of any actions required to avoid, remedy, or mitigate the adverse effect.

(3) Except as provided in section 319(2), an enforcement order may be made on such terms and conditions as the Environment Court thinks fit (including the payment of any administrative charge under section 36, the provision of security, or the entry into a bond for performance).

(4) Without limiting the provisions of subsections (1) to (3), an order may require the restoration of any natural and physical resource to the state it was in before the adverse effect occurred (including the planting or replanting of any tree or other vegetation).

(5) An enforcement order shall, if the court so states, apply to the personal representatives, successors, and assigns of a person to the same extent as it applies to that person.

Section 314(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(1)(a): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(1)(a)(i): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 314(1)(a)(i): amended, on 7 July 1993, by section 141(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(1)(b): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(1)(b)(i): amended, on 7 July 1993, by section 141(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(1)(d): amended, on 7 July 1993, by section 141(3)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(1)(d): amended, on 7 July 1993, by section 141(3)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(1)(d)(iii): amended, on 7 July 1993, by section 141(3)(c) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(1)(da): inserted, on 7 July 1993, by section 141(4) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(1)(da): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(1)(e): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(1)(f): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(2): replaced, on 7 July 1993, by section 141(5) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 314(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 314(5): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 315 Compliance with enforcement order

(1) Where an enforcement order is made against a person, and that enforcement order is served on that person, that person shall—

(a) comply with the order; and

(b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.

(2) If a person against whom an enforcement order is made fails to comply with the order, any person may, with the consent of the Environment Court,—

(a) comply with the order on behalf of the person who fails to comply with the order, and for this purpose, enter upon any land or enter any structure (with a constable if the structure is a dwellinghouse); and

(b) sell or otherwise dispose of any structure or materials salvaged in complying with the order; and

(c) after allowing for any moneys received under paragraph (b), if any, recover the costs and expenses of doing so as a debt due from that person.

(3) Any costs or expenses which remain unpaid under subsection (2)(c) may be registered under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on any land in respect of which an enforcement order is made.

(4) Failure to comply with an enforcement order is an offence under section 338.

Section 315(1): replaced, on 7 July 1993, by section 142 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 315(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 315(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### 316 Application for enforcement order

(1) Any person may at any time apply to the Environment Court in the prescribed form for an enforcement order of a kind specified in paragraphs (a) to (d) of section 314(1), or in section 314(2).

(2) An application may at any time be made in the prescribed form to the Environment Court by—

(a) a local authority, a consent authority, or the EPA for an enforcement order of the kind specified in section 314(1)(da); and

(b) a local authority or consent authority for an enforcement order of the kind specified in section 314(1)(e).

(3) An application for an enforcement order under section 314(1)(f) may be lodged—

(a) by a local authority (or the Minister of Conservation in regard to a regional coastal plan) at any time; or

(b) by any other person, no later than 3 months after the date on which the policy statement or plan becomes operative.

(4) Any person who applies for an enforcement order under any provision of this section may request that the enforcement order be made on any terms and conditions permitted by section 314(3) or section 314(4).

(5) No person (other than the consent authority, the EPA, or the Minister) may apply to the Environment Court for an enforcement order to enforce any condition of a resource consent or a rule in a plan or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the consent or rule relates.

Section 316(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 316(2): replaced, on 1 July 2020, by section 84(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 316(5): amended, on 1 July 2020, by section 84(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 316(5): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 317 Notification of application

(1) Except as provided in section 320 (which relates to interim enforcement orders), where an application for an enforcement order is made, the applicant shall serve notice of the application in the prescribed form on every person directly affected by the application.

(2) Every notice required to be served under this section shall be served within 5 working days after the application is made to the Environment Court.

Section 317(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 318 Right to be heard

Except as provided in section 320 (which relates to interim enforcement orders), before deciding an application for an enforcement order, the Environment Court shall—

(a) hear the applicant; and

(b) hear any person against whom the order is sought who wishes to be heard, but only if that person notifies the Registrar that he or she wishes to be heard within 15 working days after the date on which he or she was notified of the application.

Section 318: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 318(b): amended, on 4 September 2013, by section 55 of the Resource Management Amendment Act 2013 (2013 No 63).

### 319 Decision on application

(1) After considering an application for an enforcement order, the Environment Court may—

(a) except as provided in subsection (2), make any appropriate order under section 314; or

(b) refuse the application.

(2) Except as provided in subsection (3), the Environment Court must not make an enforcement order under section 314(1)(a)(ii), (b)(ii), (c), (d)(iv), or (da) against a person if—

(a) that person is acting in accordance with—

(i) a rule in a plan; or

(ii) a resource consent; or

(iii) a designation; and

(b) the adverse effects in respect of which the order is sought were expressly recognised by the person who approved the plan, or granted the resource consent, or approved the designation, at the time of the approval or granting, as the case may be.

(3) The Environment Court may make an enforcement order if—

(a) the court considers it appropriate after having regard to the time that has elapsed and any change in circumstances since the approval or granting, as the case may be; or

(b) the person was acting in accordance with a resource consent that has been changed or cancelled under section 314(1)(e).

Section 319(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 319(2): replaced, on 1 August 2003, by section 83 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 319(3): inserted, on 1 August 2003, by section 83 of the Resource Management Amendment Act 2003 (2003 No 23).

### 320 Interim enforcement order

(1) Except as provided in this section, the provisions of sections 314 to 319 apply to the application for, and determination of, an interim enforcement order.

(2) If an Environment Judge or a District Court Judge considers it necessary to do so, the Judge may make an interim enforcement order—

(a) without requiring service of notice in accordance with section 317; and

(b) without holding a hearing.

(3) Before making an interim enforcement order, the Environment Judge or the District Court Judge shall consider—

(a) what the effect of not making the order would be on the environment; and

(b) whether the applicant has given an appropriate undertaking as to damages; and

(c) whether the Judge should hear the applicant or any person against whom the interim order is sought; and

(d) such other matters as the Judge thinks fit.

(4) The Judge shall direct the applicant or another person to serve a copy of the interim enforcement order on the person against whom the order is made; and the order shall take effect from when it is served or such later date as the order directs.

(5) A person against whom an interim enforcement order has been made and who was not heard by a Judge before the order was made, may apply, as soon as practicable after the service of the order, to an Environment Judge or a District Court Judge to change or cancel the order; and, after hearing from the person against whom the interim enforcement order was made, the applicant, and any other person the Judge thinks fit, the Environment Judge or the District Court Judge may confirm, change, or cancel the interim enforcement order.

(6) An interim enforcement order stays in force until an application for an enforcement order under section 316 is determined, or until cancelled by an Environment Judge or a District Court Judge under subsection (5), or cancelled by the Environment Court under section 321.

Section 320: replaced, on 7 July 1993, by section 145 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 320(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 320(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 320(5): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 320(6): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 320(6): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

### 321 Change or cancellation of enforcement order

(1) Without limiting section 320(5), any person directly affected by an enforcement order may at any time apply to the Environment Court in the prescribed form to change or cancel the order.

(2) Sections 317 to 319 (which relate to notification, hearing, and decision) apply to every application under subsection (1) as if it were an application for an enforcement order.

Section 321(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

*Abatement notices*

### 322 Scope of abatement notice

(1) An abatement notice may be served on any person by an enforcement officer—

(a) requiring that person to cease, or prohibiting that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,—

(i) contravenes or is likely to contravene this Act, any regulations, a rule in a plan, or a resource consent; or

(ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment:

(b) requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan or a proposed plan, or a resource consent, and also necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the environment—

(i) caused by or on behalf of the person; or

(ii) relating to any land of which the person is the owner or occupier:

(c) requiring that person, being—

(i) an occupier of any land; or

(ii) a person carrying out any activity in, on, under, or over a water body or the water within the coastal marine area,—

who is contravening section 16 (which relates to unreasonable noise) to adopt the best practicable option of ensuring that the emission of noise from that land or water does not exceed a reasonable level.

(2) Where any person is under a duty not to contravene a rule in a proposed plan under sections 9, 12(3), 14(2), or 15(2), an abatement notice may be issued to require a person—

(a) to cease, or prohibit that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer, contravenes or is likely to contravene a rule in a proposed plan; or

(b) to do something that, in the opinion of the enforcement officer, is necessary in order to ensure compliance by or on behalf of that person with a rule in a proposed plan.

(3) An abatement notice may be made subject to such conditions as the enforcement officer serving it thinks fit.

(4) An abatement notice shall not be served unless the enforcement officer has reasonable grounds for believing that any of the circumstances in subsection (1) or subsection (2) exist.

Section 322(1)(b): replaced, on 7 July 1993, by section 146(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 322(1)(c)(ii): amended, on 7 July 1993, by section 146(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 323 Compliance with abatement notice

(1) Subject to the rights of appeal in section 325, a person on whom an abatement notice is served shall—

(a) comply with the notice within the period specified in the notice; and

(b) unless the notice directs otherwise, pay all the costs and expenses of complying with the notice.

(2) If a person against whom an abatement notice is made under section 322(1)(c) (which relates to the emission of noise), fails to comply with the notice, an enforcement officer may, without further notice, enter the place where the noise source is situated (with a constable if the place is a dwellinghouse), and—

(a) take all such reasonable steps as he or she considers necessary to cause the noise to be reduced to a reasonable level; and

(b) when accompanied by a constable, seize and impound the noise source.

### 324 Form and content of abatement notice

Every abatement notice shall be in the prescribed form and shall state—

(a) the name of the person to whom it is addressed; and

(b) the reasons for the notice; and

(c) the action required to be taken or ceased or not undertaken; and

(d) the period within which the action must be taken or cease, having regard to the circumstances giving rise to the abatement notice, being a reasonable period to take the action required or cease the action; but must not be less than 7 days after the date on which the notice is served if the abatement notice is within the scope of section 322(1)(a)(ii) and the person against whom the notice is served is complying with this Act, any regulation, a rule in a plan, or a resource consent; and

(e) the consequences of not complying with the notice or lodging a notice of appeal; and

(f) the rights of appeal under section 325; and

(g) in the case of a notice under section 322(1)(c), the rights of an enforcement officer under section 323(2) on failure of the recipient to comply with the notice within the time specified in the notice; and

(h) the name and address of the local authority or consent authority whose enforcement officer issued the notice or the address of the EPA, if the notice is issued by an enforcement officer appointed by the EPA.

Section 324(d): replaced, on 17 December 1997, by section 51(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 324(f): amended, on 17 December 1997, by section 51(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 324(g): amended, on 1 July 2020, by section 85(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 324(h): amended, on 1 July 2020, by section 85(2) of the Resource Management Amendment Act 2020 (2020 No 30).

## 325 Appeals

(1) Any person on whom an abatement notice is served may appeal to the Environment Court in accordance with subsection (2) against the whole or any part of the notice.

(2) Notice of an appeal under subsection (1) shall be in the prescribed form and shall—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations; and

(c) be lodged with the Environment Court and served on the relevant authority (whose abatement notice is appealed against) within 15 working days of service of the abatement notice on the appellant.

(3) An appeal against an abatement notice does not operate as a stay of the notice unless—

(a) the abatement notice is within the scope of section 322(1)(a)(ii) and the person against whom the notice is served is complying with this Act, any regulation, a rule in a plan, or a resource consent; or

(b) a stay is granted by an Environment Judge under subsection (3D).

(3A) Any person who appeals under subsection (1) may also apply to an Environment Judge for a stay of the abatement notice pending the Environment Court's decision on the appeal

(3B) An application for a stay must be in the prescribed form and must—

(a) state the reasons why the person considers it is unreasonable for the person to comply with the abatement notice; and

(b) state the likely effect on the environment if the stay is granted; and

(c) be lodged with the Environment Court and served immediately on the relevant authority whose abatement notice is appealed against.

(3C) Where a person applies for a stay under subsection (3A), an Environment Judge must consider the application for a stay as soon as practicable after the application has been lodged.

(3D) Before granting a stay, an Environment Judge must consider—

(a) what the likely effect of granting a stay would be on the environment; and

(b) whether it is unreasonable for the person to comply with the abatement notice pending the decision on the appeal; and

(c) whether to hear—

(i) the applicant:

(ii) the relevant authority whose abatement notice is appealed against; and

(d) such other matters as the Judge thinks fit.

(3E) An Environment Judge may grant or refuse a stay and may impose any terms and conditions the Judge thinks fit.

(3F) Any person to whom a stay is granted under subsection (3E) must serve a copy of it on the relevant authority whose abatement notice is appealed against; and no such stay has legal effect until so served.

(3G) Any stay granted under subsection (3E) remains in force until an order is made otherwise by the Environment Court.

(3H) Notwithstanding section 309, any powers which may be exercised by an Environment Judge under this section may be exercised by an Environment Commissioner.

(4) *[Repealed]*

(5) Except as provided in subsection (6), the Environment Court must not confirm an abatement notice that is the subject of an appeal if—

(a) the person served with the abatement notice was acting in accordance with—

(i) a rule in a plan; or

(ii) a resource consent; or

(iii) a designation; and

(b) the adverse effects in respect of which the notice was served were expressly recognised by the person who approved the plan, or notified the proposed plan, or granted the resource consent, or approved the designation, at the time of the approval, notification, or granting, as the case may be.

(6) The Environment Court may confirm an abatement notice, that is the subject of an appeal, if the court considers it appropriate after having regard to the time that has elapsed and any change in circumstances since the approval, notification, or granting, as the case may be.

(7) In this section, **relevant authority** means the local authority, the consent authority, or the EPA.

Section 325(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 325(2)(c): amended, on 1 July 2020, by section 86(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 325(2)(c): amended, on 17 December 1997, by section 52(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(2)(c): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 325(3): replaced, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3A): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3B): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3B)(c): amended, on 1 July 2020, by section 86(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 325(3C): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3D): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3D)(c)(ii): amended, on 1 July 2020, by section 86(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 325(3E): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3F): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3F): amended, on 1 July 2020, by section 86(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 325(3F): amended, on 1 October 2009, by section 136(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 325(3G): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(3H): inserted, on 17 December 1997, by section 52(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 325(4): repealed, on 1 October 2009, by section 136(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 325(5): replaced, on 1 August 2003, by section 84 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 325(6): inserted, on 1 August 2003, by section 84 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 325(7): inserted, on 1 July 2020, by section 86(5) of the Resource Management Amendment Act 2020 (2020 No 30).

## 325A Cancellation of abatement notice

(1) In this section, **relevant authority** means any of the following which or who authorised the enforcement officer who issued the abatement notice:

(a) the local authority:

(b) the Minister of Conservation:

(c) the EPA.

(2) Where a relevant authority considers that an abatement notice is no longer required, the relevant authority may cancel the abatement notice at any time.

(3) The relevant authority shall give written notice of its decision under subsection (2) to cancel an abatement notice to any person subject to that abatement notice.

(4) Any person who is directly affected by an abatement notice may apply in writing to the relevant authority to change or cancel the abatement notice.

(5) The relevant authority shall, as soon as practicable, consider the application having regard to the purpose for which the abatement notice was given, the effect of a change or cancellation on that purpose, and any other matter the relevant authority thinks fit; and the relevant authority may confirm, change, or cancel the abatement notice.

(6) The relevant authority shall give written notice of its decision to the person who applied under subsection (4).

(7) Where the relevant authority, after considering an application made under subsection (4) by a person who is directly affected by an abatement notice, confirms that abatement notice or changes it in a way other than that sought by that person, that person may appeal to the Environment Court in accordance with section 325(2) against the whole or any part of the abatement notice.

Section 325A: inserted, on 7 July 1993, by section 148 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 325A(1): replaced, on 1 July 2020, by section 87 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 325A(7): amended, on 10 August 2005, by section 118 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 325A(7): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 325B Restrictions on certain applications for enforcement orders and abatement notices

(1) No person may apply to the Environment Court for an enforcement order of a kind specified in any of paragraphs (a) to (d) of section 314(1), and no abatement notice shall be served on any person, in respect of anything done or to be done,—

(a) by or on behalf of the Director of Maritime New Zealand under section 248 or section 249 of the Maritime Transport Act 1994; or

(b) by or on behalf of any person in accordance with any instructions issued under either of those sections of that Act; or

(c) by or on behalf of any on-scene commander under section 305 or section 311 of that Act or in accordance with a direction given under section 310 of that Act; or

(d) by or on behalf of the master or owner of any ship, or the owner or operator of any oil transfer site or offshore installation, or any other person, in accordance with a direction given under section 305 or section 311 of that Act.

(2) No person (other than the Minister, the Director of Maritime New Zealand, a local authority, a consent authority, or the EPA) may apply to the Environment Court for an enforcement order to require any person to comply with or cease contravening section 15B (which imposes restrictions on discharges of harmful substances, contaminants, and water from ships and offshore installations).

(3) No person may apply for an enforcement order of a kind specified in section 314(1)(d) in respect of any actual or reasonable costs and expenses, where the costs and expenses which a person has incurred or is likely to incur constitute pollution damage (as defined in section 342 of the Maritime Transport Act 1994) in respect of which the owner of a CLC ship (as so defined) is liable in damages under Part 25 of that Act; and no order relating to such damage may be made by the Environment Court or any other court in any proceedings (including prosecutions for offences) under this Act.

Section 325B: inserted, on 20 August 1998, by section 17 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 325B(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 325B(1)(a): amended, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Section 325B(2): amended, on 1 July 2020, by section 88 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 325B(2): amended, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Section 325B(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 325B(3): replaced, on 17 December 1997, by section 53 of the Resource Management Amendment Act 1997 (1997 No 104).

### *Excessive noise*

### 326 Meaning of excessive noise

(1) In this Act, the term **excessive noise** means any noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person (other than a person in or at the place from which the noise is being emitted), but does not include any noise emitted by any—

(a) aircraft being operated during, or immediately before or after, flight; or

(b) vehicle being driven on a road (within the meaning of section 2(1) of the Land Transport Act 1998); or

(c) train, other than when being tested (when stationary), maintained, loaded, or unloaded.

(2) Without limiting subsection (1), **excessive noise**—

(a) includes noise that exceeds a standard for noise prescribed by a national environmental standard; and

(b) may include noise emitted by—

(i) a musical instrument; or

(ii) an electrical appliance; or

(iii) a machine, however powered; or

(iv) a person or group of persons; or

(v) an explosion or vibration.

Section 326(1)(b): amended, on 1 March 1999, by section 215(1) of the Land Transport Act 1998 (1998 No 110).

Section 326(1)(c): replaced, on 17 December 1997, by section 54 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 326(2): replaced, on 1 August 2003, by section 85 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 326(2)(a): amended, on 10 August 2005, by section 119 of the Resource Management Amendment Act 2005 (2005 No 87).

### 327 Issue and effect of excessive noise direction

(1) Any enforcement officer, or any constable acting upon the request of an enforcement officer, who—

(a) has received a complaint that excessive noise is being emitted from any place; and

(b) upon investigation of the complaint, is of the opinion that the noise is excessive,—

may direct the occupier of the place from which the sound is being emitted, or any other person who appears to be responsible for causing the excessive noise, to immediately reduce the noise to a reasonable level.

(2) A direction under subsection (1) may be given in writing or orally.

(3) Every direction under subsection (1) shall prohibit the person to whom it is given, and every other person bound by the direction, from causing or contributing to the emission of excessive noise from or within the vicinity of the place at any time during the period of 72 hours or such shorter period as the enforcement officer or constable specifies, commencing at the time the direction is given.

(4) The powers under this section are in addition to the powers under sections 322 to 325 to issue abatement notices relating to unreasonable noise and to seek an enforcement order under section 316.

### 328 Compliance with an excessive noise direction

(1) Every person who is given a direction under section 327 shall immediately comply with the direction.

(2) Every person who knows or ought to know that a direction under section 327 has been given in respect of a particular place shall comply with that direction as if he or she were the recipient of it, while on or in the vicinity of that place.

(3) If a person against whom an excessive noise direction is made fails to comply immediately with the notice, an enforcement officer (accompanied by a constable), or a constable may enter the place without further notice and—

(a) seize and remove from the place; or

(b) render inoperable by the removal of any part from; or

(c) lock or seal so as to make unusable—

any instrument, appliance, vehicle, aircraft, train, or machine that is producing or contributing to the excessive noise.

(4) Where a direction under section 327 is unable to be given because there is no person occupying the place from which the sound is being emitted or the occupier of the place cannot reasonably be identified, and there is no other person who appears to be responsible for causing the excessive noise, an enforcement officer (accompanied by a constable) or a constable may enter the place without notice and—

(a) seize and remove from the place; or

(b) render inoperable by the removal of any part from; or

(c) lock or seal so as to make unusable—

any instrument, appliance, vehicle, aircraft, train, or machine that is producing or contributing to the excessive noise.

(5) Where any enforcement officer or constable enters any place under subsection (4), he or she must leave in that place, in a prominent position,—

(a) a copy of the relevant written excessive noise direction issued under section 327; and

(b) a written notice stating—

(i) the date and time of the entry:

(ii) the name of the person in charge of the entry:

(iii) the actions taken to ensure compliance with the excessive noise direction:

(iv) the address of the office at which inquiries may be made in relation to the entry.

(6) Any enforcement officer or constable exercising any power under this section may use such assistance as is reasonably necessary.

(7) Any constable may, in exercising any power under this section, use such force as is reasonable in the circumstances.

Section 328 heading: amended, on 7 July 1993, by section 149 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 328(4): replaced, on 17 December 1997, by section 55 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 328(5): replaced, on 17 December 1997, by section 55 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 328(6): inserted, on 7 July 1993, by section 149 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 328(7): inserted, on 7 July 1993, by section 149 of the Resource Management Amendment Act 1993 (1993 No 65).

*Water shortage*

### 329 Water shortage direction

(1) Where a regional council considers that at any time there is a serious temporary shortage of water in its region or any part of its region, the regional council may issue a direction for either or both of the following:

(a) that the taking, use, damming, or diversion of water:

(b) that the discharge of any contaminant into water,—

is to be apportioned, restricted, or suspended to the extent and in the manner set out in the direction.

(2) A direction may relate to any specified water, to water in any specified area, or to water in any specified water body.

(3) A direction may not last for more than 14 days but may be amended, revoked, or renewed by the regional council by a subsequent direction.

(4) A direction comes into force on its issue and continues in force until it expires or is revoked.

(5) A direction may be issued by any means the regional council thinks appropriate, but notice of the particulars of the direction shall be given to all persons required to apportion, restrict, or suspend—

(a) the taking, use, damming, or diversion of water; or

(b) the discharge of any contaminant into water,—

as far as they can be ascertained, as soon as practicable after its issue.

(6) For the purpose of this section, notice may be given to a person by serving it on the person or by publishing the notice in 1 or more daily newspapers circulat-

ing in the area where the person takes, uses, dams, or diverts the water, or discharges a contaminant into water.

*Emergency works*

### 330 Emergency works and power to take preventive or remedial action

(1) Where—

(a) any public work for which any person has financial responsibility; or

(b) any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act; or

(c) any project or work or network utility operation for which any network utility operator is approved as a requiring authority under section 167; or

(ca) any service or system that any lifeline utility operates or provides—

is, in the opinion of the person, authority, network utility operator, or lifeline utility, affected by or likely to be affected by—

(d) an adverse effect on the environment which requires immediate preventive measures; or

(e) an adverse effect on the environment which requires immediate remedial measures; or

(f) any sudden event causing or likely to cause loss of life, injury, or serious damage to property—

the provisions of sections 9, 12, 13, 14, and 15 shall not apply to any activity undertaken by or on behalf of that person, authority, network utility operator, or lifeline utility to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(1A) Subsection (1) applies whether or not the adverse effect or sudden event was foreseeable.

(2) Where a local authority or consent authority—

(a) has financial responsibility for any public work; or

(b) has jurisdiction under this Act in respect of any natural and physical resource or area—

which is, in the reasonable opinion of that local authority or consent authority, likely to be affected by any of the conditions described in paragraphs (d) to (f) of subsection (1), the local authority or consent authority by its employees or agents may, without prior notice, enter any place (including a dwellinghouse when accompanied by a constable) and may take such action, or direct the occupier to take such action, as is immediately necessary and sufficient to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(2A) Sections 9, 12, 13, 14, and 15 do not apply to any action taken under subsection (2).

(3) As soon as practicable after entering any place under this section, every person must identify himself or herself and inform the occupier of the place of the entry and the reasons for it.

(4) Nothing in this section shall authorise any person to do anything in relation to an emergency involving a marine oil spill or suspected marine oil spill within the meaning of section 281 of the Maritime Transport Act 1994.

(5) In this section and section 330A, **lifeline utility** means a lifeline utility within the meaning of section 4 of the Civil Defence Emergency Management Act 2002 other than a lifeline utility that is a network utility operator to which subsection (1)(c) applies.

Section 330 heading: amended, on 20 August 1998, by section 18 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 330(1): amended, on 4 September 2013, by section 56(3) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 330(1): amended, on 4 September 2013, by section 56(4) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 330(1)(c): amended, on 4 September 2013, by section 56(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 330(1)(c): amended, on 7 July 1993, by section 150(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 330(1)(ca): inserted, on 4 September 2013, by section 56(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 330(1)(f): amended, on 7 July 1993, by section 150(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 330(1A): inserted, on 10 August 2005, by section 120(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 330(2A): inserted, on 10 August 2005, by section 120(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 330(4): inserted, on 20 August 1998, by section 18 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 330(5): inserted, on 4 September 2013, by section 56(5) of the Resource Management Amendment Act 2013 (2013 No 63).

### 330A Resource consents for emergency works

(1) Where an activity is undertaken under section 330, the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity shall advise the appropriate consent authority, within 7 days, that the activity has been undertaken.

(2) Where such an activity, but for section 330, contravenes any of sections 9, 12, 13, 14, and 15 and the adverse effects of the activity continue, then the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity shall apply in writing to the appropriate

consent authority for any necessary resource consents required in respect of the activity within 20 working days of the notification under subsection (1).

(3) If the application is made within the time stated in subsection (2), the activity may continue until the application for a resource consent and any appeals have been finally determined.

Section 330A: inserted, on 7 July 1993, by section 151 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 330A(1): amended, on 4 September 2013, by section 57 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 330A(1): amended, on 10 August 2005, by section 121(1)(a) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 330A(1): amended, on 10 August 2005, by section 121(1)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 330A(2): amended, on 4 September 2013, by section 57 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 330A(2): amended, on 10 August 2005, by section 121(2)(a) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 330A(2): amended, on 10 August 2005, by section 121(2)(b) of the Resource Management Amendment Act 2005 (2005 No 87).

### 330B Emergency works under Civil Defence Emergency Management Act 2002

(1) If any activity is undertaken by any person exercising emergency powers during a state of emergency declared, or transition period notified, under the Civil Defence Emergency Management Act 2002, the provisions of sections 9, 12, 13, 14, and 15 do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or mitigate any actual or adverse effect of, the emergency.

(2) If an activity is undertaken to which subsection (1) applies, the person who authorised the activity must advise the appropriate consent authority, within 7 days, that the activity has been undertaken.

(3) If such an activity, but for this section, would contravene any of sections 9, 12, 13, 14, and 15 and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity, within 60 working days of the notification under subsection (2).

(4) If the application is made within the time stated in subsection (3), the activity may continue until the application for a resource consent and any appeals have been finally determined.

(5) A person does not commit an offence under section 338(1)(a) by acting in accordance with this section.

Section 330B: inserted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

Section 330B(1): amended, at 9.59 pm on 29 November 2016, by section 42 of the Civil Defence Emergency Management Amendment Act 2016 (2016 No 88).

Section 330B(3): amended, on 1 July 2020, by section 89 of the Resource Management Amendment Act 2020 (2020 No 30).

### 331 Reimbursement or compensation for emergency works

(1) Where the local authority or consent authority takes action under section 330(2) because of the default of any person, the authority may require reimbursement from that person of its actual and reasonable costs (as defined in section 314(2)).

(1A) Where the costs required to be paid under subsection (1) are not duly paid within 20 working days of being required, the authority may seek an enforcement order under section 314(1)(d).

(2) Every—

(a) person having an estate or interest in land that is injuriously affected by the exercise of any power under section 330(2); and

(b) other person suffering any damage as a result of the exercise of that power—

shall be entitled to compensation from the authority in respect of any damage which did not arise from any failure of that person to abide by his or her duties under the Act.

(3) Any compensation under subsection (2) shall be claimed and determined in accordance with Part 5 of the Public Works Act 1981 and the provisions of that Act, so far as they apply and with all necessary modifications, shall apply accordingly.

Section 331(1): amended, on 7 July 1993, by section 152(1)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 331(1): amended, on 7 July 1993, by section 152(1)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 331(1A): inserted, on 7 July 1993, by section 152(2) of the Resource Management Amendment Act 1993 (1993 No 65).

## *Powers of entry and search*

### 332 Power of entry for inspection

(1) Any enforcement officer, specifically authorised in writing by any local authority, consent authority, or by the EPA to do so, may at all reasonable times go on, into, under, or over any place or structure, except a dwellinghouse, for the purpose of inspection to determine whether or not—

(a) this Act, any regulations, a rule of a plan, a resource consent, section 10 (certain existing uses protected), or section 10A (certain existing activities allowed), or section 20A (certain lawful existing activities allowed) is being complied with; or

(b) an enforcement order, interim enforcement order, abatement notice, or water shortage direction is being complied with; or

(c) any person is contravening a rule in a proposed plan in a manner prohibited by any of sections 9, 12(3), 14(1), 15(2), and 15(2A).

(d) *[Repealed]*

(2) For the purposes of subsection (1), an enforcement officer may take samples of water, air, soil, or organic matter.

(2A) Where a sample is taken under subsection (2), an enforcement officer may also take a sample of any substance that the enforcement officer has reasonable cause to suspect is a contaminant of any water, air, soil, or organic matter.

(3) Every enforcement officer who exercises any power of entry under this section shall produce for inspection his or her warrant of appointment and written authorisation upon initial entry and in response to any later reasonable request.

(4) If the owner or occupier of a place subject to inspection is not present at the time of the inspection, the enforcement officer shall leave in a prominent position at the place or attached to the structure, a written notice showing the date and time of the inspection and the name of the officer carrying out the inspection.

(5) An enforcement officer may not enter, unless the permission of the landowner is obtained, any land which any other Act states may not be entered without that permission.

(6) Any enforcement officer exercising any power under this section may use such assistance as is reasonably necessary.

Section 332(1): amended, on 1 July 2020, by section 90 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 332(1)(a): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 332(1)(a): amended, on 7 July 1993, by section 153(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 332(1)(c): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 332(1)(c): amended, on 1 October 2009, by section 137 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 332(1)(d): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 332(2): amended, on 7 July 1993, by section 153(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 332(2A): inserted, on 7 July 1993, by section 153(3) of the Resource Management Amendment Act 1993 (1993 No 65).

### 333 Power of entry for survey

(1) For any purpose connected with the preparation, change, or review of a policy statement or plan, any enforcement officer specifically authorised in writing by any local authority or consent authority to do so, may do all or any of the following:

(a) carry out surveys, investigations, tests, or measurements:

(b) take samples of any water, air, soil, or vegetation:

(c) enter or re-enter land (except a dwellinghouse),—

at any reasonable time, with or without such assistance, vehicles, appliances, machinery, and equipment as is reasonably necessary for that purpose.

(1A) *[Repealed]*

(2) Reasonable written notice shall be given to the occupier of land to be entered under subsection (1)—

(a) that entry on to the land is authorised under this section:

(b) of the purpose for which entry is required:

(c) how and when entry is to be made.

(3) Every enforcement officer who exercises any power of entry under this section shall produce for inspection his or her warrant of appointment and written authorisation upon initial entry and in response to any later reasonable request.

Section 333(1A): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 334 Application for warrant for entry for search

(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who, on an application made in the manner provided in subpart 3 of Part 4 of that Act, is satisfied that there is reasonable ground for believing that there is in, on, under, or over any place or vehicle anything—

(a) in respect of which an offence has been or is suspected of having been committed against this Act or regulations that is punishable by imprisonment; or

(b) which there is reasonable grounds to believe will be evidence of an offence against this Act or regulations that is punishable by imprisonment; or

(c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing an offence against this Act or regulations that is punishable by imprisonment—

may issue a warrant authorising the entry and search of any place or vehicle.

(2) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.

(3) Despite subsection (2), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Section 334(1): amended, on 1 October 2012, by section 300(2)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 334(1): amended, on 1 October 2012, by section 300(2)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 334(2): replaced, on 1 October 2012, by section 300(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 334(3): replaced, on 1 October 2012, by section 300(3) of the Search and Surveillance Act 2012 (2012 No 24).

### 335 Direction and execution of warrant for entry for search

(1) Every warrant under section 334 shall be directed to and executed by—

(a) any specified constable; or

(b) any specified enforcement officer when accompanied by a constable; or

(c) generally, every constable; or

(d) generally, every enforcement officer when accompanied by a constable.

(2) *[Repealed]*

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

Section 335 heading: amended, on 1 October 2012, by section 300(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 335(2): repealed, on 1 October 2012, by section 300(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 335(3): repealed, on 1 October 2012, by section 300(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 335(4): repealed, on 1 October 2012, by section 300(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 335(5): repealed, on 1 October 2012, by section 300(5) of the Search and Surveillance Act 2012 (2012 No 24).

## *Return of property*

Heading: replaced, on 4 September 2013, by section 58 of the Resource Management Amendment Act 2013 (2013 No 63).

### 336 Return of property seized under sections 323 and 328

(1) Where any property is seized and impounded under section 323 or 328 (which relate to failure to comply with an abatement notice to reduce noise or an excessive noise direction), the owner of the property or the person from whom it was seized may apply to the relevant authority or Police station where the property is held, at any time, to have the property returned to him or her.

(2) Where an application is made under subsection (1), the relevant authority or constable with authority to do so must arrange for the return of the property if—

(a) satisfied that the return of the property is not likely to lead to a resumption of the emission of noise beyond a reasonable level; and

(b) the applicant has paid all costs incurred by the relevant authority or Police in seizing, impounding, transporting, and storing the property.

(3) Where the relevant authority or constable with authority to do so refuses to return the property for the reason specified in subsection (2)(a), the applicant may make an application to the Environment Court, and section 325(2) applies as if—

(a) the reference to service of the abatement notice on the appellant were reference to any refusal under this section; and

(b) the time limit for lodging the application were 6 months from the date of seizure.

(4) The Environment Court, on an application under subsection (3), may—

(a) order the return of the property subject to any conditions relating to the continued reduction of noise as it thinks fit; or

(b) refuse the application for the return of the property.

(5) Where—

(a) any property seized under section 323 or 328 is not claimed within 6 months of its seizure; or

(b) the return of the property has been refused under subsection (3) and no application has been lodged within 6 months of the date of seizure; or

(c) the Environment Court has refused the return of the property under subsection (4)(b),—

the relevant authority or the Police may dispose of the property in accordance with subsection (6).

(6) Any local authority, consent authority, or constable wishing to dispose of property under subsection (5)—

(a) must give written notice to the person from whom the property was seized, where the person's address is known; and

(b) may sell or cause the property to be otherwise disposed of; and

(c) may, where any proceeds are realised, apply these to the payment of costs and expenses incurred in selling the property under this section and any costs incurred in seizing, impounding, transporting, and storing the property; and

(d) must, on demand, pay the remainder of the proceeds to the person from whom the property was seized.

(7) In this section, **relevant authority** means the local authority, the consent authority, or the EPA.

Section 336: replaced, on 4 September 2013, by section 58 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 336(1): amended, on 1 July 2020, by section 91(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 336(2): amended, on 1 July 2020, by section 91(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 336(2)(b): amended, on 1 July 2020, by section 91(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 336(3): amended, on 1 July 2020, by section 91(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 336(5): amended, on 1 July 2020, by section 91(5) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 336(7): inserted, on 1 July 2020, by section 91(6) of the Resource Management Amendment Act 2020 (2020 No 30).

### 337 Return of property seized under warrant

*[Repealed]*

Section 337: repealed, on 1 October 2012, by section 300(6) of the Search and Surveillance Act 2012 (2012 No 24).

## *Offences*

### 338 Offences against this Act

(1) Every person commits an offence against this Act who contravenes, or permits a contravention of, any of the following:

(a) sections 9, 11, 12, 13, 14, and 15 (which impose duties and restrictions in relation to land, subdivision, the coastal marine area, the beds of certain rivers and lakes, water, and discharges of contaminants):

(b) any enforcement order:

(c) any abatement notice, other than a notice under section 322(1)(c):

(d) any water shortage direction under section 329.

(1A) Every person commits an offence against this Act who contravenes or permits a contravention of section 15A or section 15C (which impose restrictions in relation to waste or other matter).

(1B) Where any harmful substance or contaminant or water is discharged in the coastal marine area in breach of section 15B, the following persons each commit an offence:

(a) if the discharge is from a ship, the master and the owner of the ship:

(b) if the discharge is from an offshore installation, the owner of the installation.

(2) Every person commits an offence against this Act who contravenes, or permits a contravention of, any of the following:

(a) section 22, which relates to failure to provide certain information to an enforcement officer:

(b) section 42, which relates to the protection of sensitive information:

(c) any excessive noise direction under section 327:

(d) any abatement notice for unreasonable noise under section 322(1)(c):

(e) any order (other than an enforcement order) made by the Environment Court.

(3) Every person commits an offence against this Act who—

(a) wilfully obstructs, hinders, resists, or deceives any person in the execution of any powers conferred on that person by or under this Act:

(b) contravenes, or permits a contravention of, any of the following:

(i) section 283, which relates to non-attendance or refusal to co-operate with the Environment Court:

(ii) any summons or order to give evidence issued or made pursuant to section 41:

(c) contravenes, or permits a contravention of, any provision (as provided in Schedule 10) specified in an instrument for the creation of an esplanade strip or in an easement for an access strip, or enters a strip which is closed under section 237C.

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against subsection (1), (1A), or (1B) ends on the date that is 12 months after the date on which the contravention giving rise to the charge first became known, or should have become known, to the local authority or consent authority.

Section 338(1A): inserted, on 20 August 1998, by section 19 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 338(1B): inserted, on 20 August 1998, by section 19 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 338(2)(e): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 338(3)(b)(i): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 338(3)(c): inserted, on 7 July 1993, by section 155 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 338(4): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 338(4): amended, on 1 July 2020, by section 92 of the Resource Management Amendment Act 2020 (2020 No 30).

### 339 Penalties

(1) Every person who commits an offence against section 338(1), (1A), or (1B) is liable on conviction,—

(a) in the case of a natural person, to imprisonment for a term not exceeding 2 years or a fine not exceeding $300,000:

(b) in the case of a person other than a natural person, to a fine not exceeding $600,000.

(1A) Every person who commits an offence against section 338(1), (1A), or (1B) is also liable on conviction, if the offence is a continuing one, to a fine not

exceeding $10,000 for every day or part of a day during which the offence continues.

(2) Every person who commits an offence against section 338(2) is liable on conviction to a fine not exceeding $10,000, and, if the offence is a continuing one, to a further fine not exceeding $1,000 for every day or part of a day during which the offence continues.

(3) Every person who commits an offence against section 338(3) is liable on conviction to a fine not exceeding $1,500.

(4) A court may sentence any person who commits an offence against this Act to a sentence of community work, and the provisions of Part 2 of the Sentencing Act 2002, with all necessary modifications, apply accordingly.

(5) If a person is convicted of an offence against section 338, the court may, instead of or in addition to imposing a fine or a term of imprisonment, make 1 or more of the following orders:

(a) the orders specified in section 314:

(b) an order requiring a consent authority to serve notice, under section 128(2), of the review of a resource consent held by the person, but only if the offence involves an act or omission that contravenes the consent.

(6) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.

Section 339(1): replaced, on 1 October 2009, by section 139(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 339(1A): inserted, on 1 October 2009, by section 139(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 339(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 339(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 339(4): replaced, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 339(5): replaced, on 1 October 2009, by section 139(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 339A Protection against imprisonment for dumping and discharge offences involving foreign ships

(1) No person shall be imprisoned for any offence of contravening or permitting a contravention of section 15A or section 15B involving a foreign ship unless the court is satisfied that—

(a) either—

(i) the person intended to commit the offence; or

(ii) the offence occurred as a consequence of any reckless act or omission by that person with the knowledge that that act or omission

would or would be likely to cause a significant or irreversible adverse effect on the coastal marine area; and

(b) the commission of the offence has had or is likely to have a significant or irreversible adverse effect on the coastal marine area.

(2) In this section, **foreign ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994.

Section 339A: inserted, on 20 August 1998, by section 21 of the Resource Management Amendment Act 1994 (1994 No 105).

### 339B Additional penalty for certain offences for commercial gain

(1) Where a person is convicted of an offence against section 338(1A) or (1B), the court may, in addition to any penalty which the court may impose under section 339, order that person to pay an amount not exceeding 3 times the value of any commercial gain resulting from the commission of the offence if the court is satisfied that the offence was committed in the course of producing a commercial gain.

(2) For the purposes of subsection (1), the value of any gain shall be assessed by the court, and any amount ordered to be paid shall be recoverable in the same manner as a fine.

Section 339B: inserted, on 20 August 1998, by section 21 of the Resource Management Amendment Act 1994 (1994 No 105).

### 339C Amount of fine or other monetary penalty recoverable by distress and sale of ship or from agent

(1) Where—

(a) the master or owner of a ship is convicted of an offence against section 338 in respect of any contravention of section 15A or section 15B or section 15C; and

(b) any fine or other monetary penalty imposed by a court under section 339 or section 339B in respect of that offence is not paid on time,—

the court may order that the amount of the fine so unpaid be levied by distress and sale of the ship and its equipment.

(2) Without limiting subsection (1), where any master or owner of a ship—

(a) is convicted of an offence against section 338 in respect of any contravention of section 15A or section 15B or section 15C; and

(b) fails to pay the full amount of any fine or other monetary penalty imposed by the court under section 339 or section 339B,—

the agent of the ship shall be civilly liable to pay to the Crown or, if the proceedings in relation to the offence were commenced by or on behalf of a local authority, to that local authority, such amount of that fine or monetary penalty as remains unpaid and the Crown or that local authority may recover that amount from that agent as a debt.

(2A) For the purpose of subsection (2), any proceedings in relation to the offence that were commenced by or on behalf of a local authority include any proceedings in which the EPA was assisting the local authority (*see* section 343F(b)).

(3) Every agent of a ship who, under this section, pays the whole or part of any fine or other monetary penalty imposed on the master or owner of the ship shall be entitled to recover the amount so paid from that master or owner as a debt or deduct that amount out of or from any money which is or becomes payable by that agent to that master or owner; and any amount so paid by the agent shall, for the purposes of section 4(1)(p) of the Admiralty Act 1973, be deemed to be a disbursement made on account of the ship.

(4) The District Court has jurisdiction to hear and determine proceedings for the recovery, in accordance with this section, of any money from any agent or master or owner of a ship whatever the amount of money involved.

(5) This section shall apply notwithstanding any enactment or rule of law.

Section 339C: inserted, on 20 August 1998, by section 21 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 339C(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 339C(2A): inserted, on 1 July 2020, by section 93 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 339C(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### 340 Liability of principal for acts of agents

(1) Where an offence is committed against this Act—

(a) by any person acting as the agent (including any contractor) or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he, she, or it had personally committed the offence; or

(b) by any person while in charge of a ship, the owner of the ship shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he, she, or it had personally committed the offence.

(2) Despite anything in subsection (1), if proceedings are brought under that subsection, it is a good defence if—

(a) the defendant proves,—

(i) in the case of a natural person (including a partner in a firm),—

(A) that he or she did not know, and could not reasonably be expected to have known, that the offence was to be or was being committed; or

(B) that he or she took all reasonable steps to prevent the commission of the offence; or

(ii) in the case of a person other than a natural person,—

(A) that neither the directors (if any) nor any person involved in the management of the defendant knew, or could reasonably be expected to have known, that the offence was to be or was being committed; or

(B) that the defendant took all reasonable steps to prevent the commission of the offence; and

(b) the defendant proves that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

(3) If a person other than a natural person is convicted of an offence against this Act, a director of the defendant (if any), or a person involved in the management of the defendant, is guilty of the same offence if it is proved—

(a) that the act or omission that constituted the offence took place with his or her authority, permission, or consent; and

(b) that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Section 340(1): replaced, on 20 August 1998, by section 22 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 340(1)(a): amended, on 17 December 1997, by section 57(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 340(2): replaced, on 1 October 2009, by section 140 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 340(3): replaced, on 1 October 2009, by section 140 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 341 Strict liability and defences

(1) In any prosecution for an offence of contravening or permitting a contravention of any of sections 9, 11, 12, 13, 14, and 15, it is not necessary to prove that the defendant intended to commit the offence.

(2) Subject to subsection (3), it is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves—

(a) that—

(i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

(b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case—

(i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.

(3) Except with the leave of the court, subsection (2) does not apply unless, within 7 days after the service of the summons or within such further time as the court may allow, the defendant delivers to the prosecutor a written notice—

(a) stating that he or she intends to rely on subsection (2); and

(b) specifying the facts that support his or her reliance on subsection (2).

Section 341(2)(b): amended, on 7 July 1993, by section 156 of the Resource Management Amendment Act 1993 (1993 No 65).

### 341A Liability and defences for dumping and storage of waste or other matter

It is a defence to prosecution for an offence of contravening or permitting a contravention of section 15A if the defendant proves that the act or omission which is alleged to constitute the offence—

(a) was necessary—

(i) to save or prevent danger to human life; or

(ii) to avert a serious threat to any ship, aircraft, or offshore installation; or

(iii) in the case of force majeure caused by stress of weather, to secure the safety of any ship, aircraft, or offshore installation; and

(b) was a reasonable step to take in all the circumstances; and

(c) was likely to result in less damage than would otherwise have occurred; and

(d) was taken or omitted in such a way that the likelihood of damage to human or marine life was minimised.

Section 341A: inserted, on 20 August 1998, by section 23 of the Resource Management Amendment Act 1994 (1994 No 105).

### 341B Liability and defences for discharging harmful substances

(1) In any prosecution for an offence against section 338(1B) (which relates to the discharge of harmful substances, contaminants, or water, in breach of section 15B) it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution for an offence against section 338(1B) if the defendant proves that—

(a) the harmful substance or contaminant or water was discharged for the purpose of securing the safety of a ship or an offshore installation, or for the purpose of saving life and that the discharge was a reasonable step to effect that purpose; or

(b) the harmful substance or contaminant or water escaped as a consequence of damage to a ship or its equipment or to an offshore installation or its equipment; and—

(i) such damage occurred without the negligence or deliberate act of the defendant; and

(ii) as soon as practicable after that damage occurred, all reasonable steps were taken to prevent the escape of the harmful substance or contaminant or water or, if any such escape could not be prevented, to minimise any escape.

Section 341B: inserted, on 20 August 1998, by section 23 of the Resource Management Amendment Act 1994 (1994 No 105).

### 342 Fines to be paid to local authority instituting prosecution

(1) Subject to subsection (2), where a person is convicted of an offence under section 338 and the court imposes a fine, the court shall, if the proceedings in relation to the offence were commenced by or on behalf of a local authority, order that the fine be paid to that local authority.

(2) There shall be deducted from every amount payable to a local authority under subsection (1), a sum equal to 10% thereof, and this sum shall be credited to a Crown Bank Account.

(3) Notwithstanding anything in subsection (2), where any money awarded by a court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a local authority under subsection (1), no deduction shall be made under subsection (2) in respect of that money.

(4) Subject to subsection (2), an order of the court made under subsection (1) shall be sufficient authority for the Registrar receiving the fine to pay that fine to the local authority entitled to it under the order.

(5) Nothing in section 73 of the Public Finance Act 1989 shall apply to any fine ordered to be paid to any local authority under subsection (1).

(6) If the court orders the payment of a fine for an offence prosecuted by the EPA acting under section 343F(b),—

(a) 10% of the fine must be credited to a Crown Bank Account; and

(b) the balance of the fine must be credited to the local authority that the EPA was assisting.

Section 342(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 342(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 342(6): inserted, on 1 July 2020, by section 94 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343 Discharges from ships

*[Repealed]*

Section 343: repealed, on 20 August 1998, by section 24 of the Resource Management Amendment Act 1994 (1994 No 105).

## *Infringement offences*

Heading: inserted, on 2 September 1996, by section 18 of the Resource Management Amendment Act 1996 (1996 No 160).

### 343A Infringement offences

In sections 343B to 343D—

**infringement fee**, in relation to an infringement offence, means the amount fixed by regulations made under section 360(1)(bb), as the infringement fee for the offence

**infringement offence** means an offence specified as such in regulations made under section 360(1)(ba).

Section 343A: inserted, on 2 September 1996, by section 18 of the Resource Management Amendment Act 1996 (1996 No 160).

### 343B Commission of infringement offence

Where any person is alleged to have committed an infringement offence, that person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided for in section 343C.

Section 343B: inserted, on 2 September 1996, by section 18 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 343B(a): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### 343C Infringement notices

(1) Where an enforcement officer observes a person committing an infringement offence, or has reasonable cause to believe such an offence is being or has been committed by that person, an infringement notice in respect of that offence may be served on that person.

(2) Any enforcement officer (not necessarily the officer who issued the notice) may deliver the infringement notice (or a copy of it) to the person alleged to have committed an infringement offence personally or by post addressed to that

person's last known place of residence or business; and, in that case, it (or the copy) shall be deemed to have been served on that person when it was posted.

(3) Every infringement notice shall be in the prescribed form and shall contain the following particulars:

(a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

(b) the amount of the infringement fee specified for that offence; and

(c) the address of the place at which the infringement fee may be paid; and

(d) the time within which the infringement fee must be paid; and

(e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(f) a statement that the person served with the notice has a right to request a hearing; and

(g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing; and

(h) such other particulars as are prescribed.

(4) If an infringement notice has been issued under this section,—

(a) a reminder notice must be in the form prescribed under this Act; and

(b) proceedings in respect of the offence to which the infringement notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957, and the provisions of that section apply with all necessary modifications.

Section 343C: inserted, on 2 September 1996, by section 18 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 343C(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 343C(4): replaced, on 9 October 2006, by section 36(1) of the Summary Proceedings Amendment Act 2006 (2006 No 13).

### 343D Entitlement to infringement fees

(1) A local authority shall be entitled to retain all infringement fees received by it in respect of infringement offences where the infringement notice was issued by an enforcement officer of that authority.

(2) However, any infringement fee relating to an infringement notice issued by an enforcement officer appointed by the EPA must be paid into a Crown Bank Account.

Section 343D(1): inserted, on 2 September 1996, by section 18 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 343D(2): inserted, on 1 July 2020, by section 95 of the Resource Management Amendment Act 2020 (2020 No 30).

# Part 12A
# Enforcement functions of EPA

Part 12A: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

## 343E Terms used in this Part

(1) In this Part,—

**enforcement action** means—

(a) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of determining whether there is or has been—

(i) a contravention of a provision of this Act, any regulations, a rule in a plan, a rule in a proposed plan that has legal effect, a national environmental standard, or a resource consent; or

(ii) a failure to comply with a requirement of an enforcement order or abatement notice; or

(b) an application for an enforcement order under section 316; or

(c) an application for an interim enforcement order under section 320; or

(d) the service of an abatement notice under section 322; or

(e) the filing of a charging document relating to an offence described in section 338; or

(f) the issuing of an infringement notice under section 343C; or

(g) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an enforcement action described in paragraphs (b) to (f)

**enforcement function** means a function of the EPA described in section 343F

**incident** means an occurrence that may, directly or indirectly, be linked to—

(a) a contravention or possible contravention of a provision of this Act, any regulations, a rule in a plan, a national environmental standard, or a resource consent; or

(b) a failure or possible failure to comply with a requirement of an enforcement order or an abatement notice

**subsequent action**—

(a) means a prosecution, proceeding, application, or other activity that the EPA or a local authority may carry out under this Act in relation to an enforcement action that has been executed; and

(b) includes an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an activity described in paragraph (a).

(2) In paragraph (a) of the definition of enforcement action in subsection (1), **other activity** includes, without limitation, an application for a declaration under section 311.

(3) In this Part, an enforcement action is **executed** when, as the case may be, the application for the enforcement order or interim order is made, the abatement notice is served, the charge is laid, or the infringement notice is issued.

Section 343E: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343F Enforcement functions of EPA

The EPA may perform any of the following enforcement functions if satisfied that the performance of the function is necessary or desirable to promote the purpose of this Act:

(a) the EPA may take an enforcement action and any subsequent action in relation to an incident if the local authority has not commenced taking any enforcement action in relation to the same incident:

(b) the EPA may, with the agreement of a local authority, assist the local authority with an enforcement action in relation to an incident and any subsequent action:

(c) the EPA may intervene in an enforcement action of a local authority in relation to an incident by taking over the enforcement action and taking any subsequent action.

Section 343F: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343G Intervention by EPA

(1) If the EPA intervenes in an enforcement action of a local authority in relation to an incident,—

(a) the EPA must notify the chief executive of the local authority in writing of the incident to which the intervention relates and the date on which the intervention takes effect; and

(b) the local authority must,—

(i) on receipt of the notice, cease any enforcement action in relation to the incident, except for an enforcement action described in paragraph (a) or (g) of the definition of enforcement action in section 343E(1); and

(ii) from the date specified in the notice, cease all enforcement action in relation to the incident; and

(c) the EPA takes over all enforcement action in relation to the incident from the date specified in the notice; and

(d) only the EPA may take any enforcement action or subsequent action in relation to the incident unless subsection (3) applies.

(2) When intervening in an enforcement action of a local authority, the EPA must not intervene in relation to an enforcement action that the local authority has already executed in respect of a person.

(3) If the EPA decides to cease its intervention,—

(a) it must notify the chief executive of the local authority in writing of its decision and the date on which it takes effect; and

(b) it must specify in the notice the date on which the intervention will cease; and

(c) the local authority may, from the date referred to in paragraph (b),—

(i) take an enforcement action or subsequent action in relation to the incident; or

(ii) resume any enforcement action that it had commenced before the intervention.

(4) To avoid doubt, subsection (2) does not prevent the EPA from taking an enforcement action in relation to another incident in respect of the same person.

Section 343G: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343H EPA may change enforcement functions

(1) The EPA may change its enforcement function in relation to an incident to another function described in section 343F if the EPA considers that the circumstances require it.

(2) If the EPA decides to change to an intervention function described in section 343F(c), it must include its reasons for the change in the notice required under section 343G(1).

Section 343H: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343I EPA enforcement officers

(1) The EPA may authorise a person described in subsection (2) to be an enforcement officer for the purpose of carrying out its enforcement functions under this Act.

(2) A person may be authorised as an enforcement officer if the person—

(a) has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to the person; or

(b) is an employee of the EPA who is suitably qualified and trained.

(3) The EPA must supply each enforcement officer with a warrant that—

(a) states the full name of the person; and

(b) includes a summary of the powers conferred on the person under this Act.

(4) An enforcement officer may exercise the powers under this Act, in accordance with his or her warrant, only for the purposes for which he or she was appointed.

(5) An enforcement officer exercising a power under this Act must have with him or her, and must produce if required to do so, his or her warrant and evidence of his or her identity.

(6) An enforcement officer who holds a warrant issued under this section must, on the termination of the officer's appointment, surrender the warrant to the EPA.

Compare: 2012 No 72 ss 138, 139

Section 343I: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343J EPA may require information from local authority

(1) The EPA may require a local authority to provide information that the EPA requires for taking an enforcement action in relation to an incident.

(2) The EPA must notify the chief executive of the local authority in writing and specify the incident for which information is required.

(3) A local authority must provide the required information to the EPA as soon as is reasonably practicable, but no later than 10 working days after the chief executive is notified.

Section 343J: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343K Additional reporting requirements

(1) The annual report of the EPA under section 150 of the Crown Entities Act 2004 must include information about the performance of the EPA's enforcement functions, including the number and type of enforcement actions executed by the EPA.

(2) The EPA is not required to provide information under subsection (1) that would prejudice the maintenance of law, including the prevention, investigation, or detection of offences, or the right to a fair trial.

Section 343K: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

### 343L Order for payment of EPA's costs in bringing a prosecution

(1) On the application of the EPA, the court may order a person convicted of an offence under this Act to pay to the EPA a sum that the court thinks just and reasonable towards the costs of the prosecution (including the costs of investigating the offence and any associated costs).

(2) If the court makes an order under subsection (1), it must not make an order under section 4 of the Costs in Criminal Cases Act 1967.

(3) If the court makes an order under subsection (1) in respect of a Crown organisation, any costs and fees awarded must be paid from the funds of that organisation.

Compare: 2015 No 70 s 152

Section 343L: inserted, on 1 July 2020, by section 96 of the Resource Management Amendment Act 2020 (2020 No 30).

# Part 13
# Hazards Control Commission

*[Repealed]*

Part 13: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## 344 Interpretation

*[Repealed]*

Section 344: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## 345 Purpose and principles

*[Repealed]*

Section 345: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## 346 Establishment of Commission

*[Repealed]*

Section 346: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## 347 Functions of Commission

*[Repealed]*

Section 347: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## 348 Membership of Commission

*[Repealed]*

Section 348: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## 349 Compliance with policy directions

*[Repealed]*

Section 349: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

### 350 Further provisions applying in respect of Commission

*[Repealed]*

Section 350: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

### 351 Regulations

*[Repealed]*

Section 351: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

## Part 14
## Miscellaneous provisions

### 352 Service of documents

(1) Where a notice or other document is to be served on a person for the purposes of this Act,—

(a) if the person has specified an electronic address as an address for service for the matter to which the document relates, and has not requested a method of service listed in paragraph (b), the document must be served by sending it to the electronic address:

(b) if the person has not specified an electronic or other address as an address for service or if the person has requested any of the following methods of service, the document may be served by the requested method or any of the following methods:

(i) delivering it personally to the person (other than a Minister of the Crown):

(ii) delivering it at the usual or last known place of residence or business of the person:

(iii) sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person:

(iv) posting it to the PO box address that the person has specified as an address for service:

(v) leaving it at a document exchange for direction to the document exchange box number that the person has specified as an address for service:

(vi) sending it to the fax number that the person has specified as an address for service.

(1AA) However, if the document is to be served on a person to commence, or in the course of, court proceedings, subsection (1) does not apply if the court, whether expressly or in its rules or practices, requires a different method of service.

(1A) Nothing in subsection (1) overrides the provisions of the Electronic Courts and Tribunals Act 2016.

(2) Where a notice or other document is to be served on a Minister of the Crown for the purposes of this Act, service on the chief executive of the appropriate department of the public service in accordance with subsection (1) shall be deemed to be service on the Minister.

(3) Where a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with subsection (1) shall be deemed to be service on the body.

(4) Where a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with subsections (1) and (3) shall be deemed to be service on the partnership.

(4A) Despite subsection (1), if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served—

(a) by delivering it at the organisation's head office or principal place of business; or

(b) by sending it to the fax number or electronic address that the organisation has specified for its head office or principal place of business; or

(c) by a method agreed between the organisation and the person serving the notice or document.

(5) Where a notice or other document is sent by post to a person in accordance with subsection (1)(b)(iii) or (iv), it shall be deemed, in the absence of proof to the contrary, to be received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

Section 352(1): replaced, on 18 October 2017, by section 165(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 352(1AA): inserted, on 18 October 2017, by section 165(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 352(1A): inserted, on 1 March 2017, by section 36(2) of the Electronic Courts and Tribunals Act 2016 (2016 No 52).

Section 352(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 352(4A): inserted, on 1 October 2009, by section 141(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 352(4A)(b): amended, on 18 October 2017, by section 165(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 352(5): amended, on 18 October 2017, by section 165(3) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 352A Mode of service of summons on master or owner of ship

(1) If the master or owner of a ship is a defendant in a prosecution for an offence against section 338 for contravening sections 15A, 15B, or 15C, service on the

defendant of a summons or other document is effected for the purposes of the Criminal Procedure Act 2011—

(a) if it is delivered personally to the agent of the ship on behalf of the defendant or is brought to the notice of the agent if the agent refuses to accept it on behalf of the defendant; or

(b) if it is sent to the agent of the ship by registered letter addressed to that agent on behalf of the defendant at the agent's last known or usual place of residence or the agent's place of business.

(1A) Subsection (1) applies despite any other enactment.

(2) However, a District Court Judge or Justice or Community Magistrate or the Registrar may direct that the summons or other document shall be served on the defendant in accordance with rules made under the Criminal Procedure Act 2011, where he or she is satisfied that it would not be impracticable to do so in the particular circumstances.

(3) Unless the contrary is shown, the time at which service shall be deemed to have been effected on the defendant shall be,—

(a) where service is effected in accordance with subsection (1)(a), the time when the summons or other document is personally delivered to the agent of the ship or brought to that agent's attention, as the case may be; or

(b) where service is effected in accordance with subsection (1)(b), the time when the letter would have been delivered to the agent of the ship in the ordinary course of post.

(4) In this section,—

**District Court Judge** means a District Court Judge appointed under the District Court Act 2016

**Justice** has the same meaning as in section 2 of the Justice of the Peace Act 1957

**Registrar** has the same meaning as in section 5 of the Criminal Procedure Act 2011.

Section 352A: inserted, on 20 August 1998, by section 25 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 352A(1): replaced, on 10 August 2005, by section 122(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 352A(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 352A(1A): inserted, on 10 August 2005, by section 122(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 352A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 352A(2): amended, on 10 August 2005, by section 122(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 352A(2): amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 352A(4): replaced, on 10 August 2005, by section 122(3) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 352A(4) **District Court Judge**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 352A(4) **Registrar**: amended, on 19 April 2017, by section 111 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 352A(4) **Registrar**: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### 353 Notices and consents in relation to Maori land

Part 10 of Te Ture Whenua Maori Act 1993 shall apply to the service of notices under this Act on owners of Maori land, except that in no case shall the period fixed for anything to be done by the owners be extended by more than 20 working days under section 181(4) of that Act, unless otherwise provided by the local authority or the EPA.

Section 353: replaced, on 7 July 1993, by section 158 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 353: amended, on 1 July 2020, by section 97 of the Resource Management Amendment Act 2020 (2020 No 30).

### 354 Crown's existing rights to resources to continue

(1) Without limiting the Interpretation Act 1999 but subject to subsection (2), it is hereby declared that the repeal by this Act or the Crown Minerals Act 1991 of any enactment, including in particular—

(a) section 3 of the Geothermal Energy Act 1953; and

(b) section 21 of the Water and Soil Conservation Act 1967; and

(c) section 261 of the Coal Mines Act 1979,—

shall not affect any right, interest, or title, to any land or water acquired, accrued, established by, or vested in, the Crown before the date on which this Act comes into force, and every such right, interest, and title shall continue after that date as if those enactments had not been repealed.

(2) Any person may take, use, dam, divert, or discharge into, any water in which the Crown has an interest, without obtaining the consent of the Crown, if the taking, use, damming, diversion, or discharge by that person does not contravene this Act or regulations.

(3) Any person may use or occupy any part of the common marine and coastal area without obtaining consent, unless consent must be obtained under—

(a) this Act; or

(b) any other enactment; or

(c) any instrument or order made under an enactment.

Section 354(1): amended, on 1 November 1999, pursuant to section 38(1) of the Interpretation Act 1999 (1999 No 85).

Section 354(2): replaced, on 7 July 1993, by section 159 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 354(3): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 355 Vesting of reclaimed land

(1) *[Repealed]*

(2) Any person may apply to the Minister of Lands for any right, title, or interest in any land—

(a) which forms part of a riverbed or lakebed which is land of the Crown; and

(b) which has been reclaimed or is proposed to be reclaimed—

to be vested in that person.

(3) The Minister of Lands may, if he or she thinks fit, by notice in the *Gazette*, vest in the applicant any right, title, or interest in any area of reclaimed land that forms part of a riverbed or lakebed that is not within the coastal marine area and which is land of the Crown after—

(a) determining an appropriate price (if any) to be paid by the applicant in respect thereof; and

(b) ensuring that the consent authority has issued a certificate under section 245(5)(a)(ii) or (5)(b)(ii).

(4) Every *Gazette* notice published under subsection (3)—

(a) shall state the name of the person or local authority in whom or which the right, title, or interest is vested, and accurately describe the position and extent of the reclaimed land; and

(ab) must describe the right, title, or interest vested; and

(b) shall refer to any encumbrances or restrictions imposed on the applicant's right, title, or interest in the land; and

(c) shall be sent by the relevant Minister to the Registrar-General of Land, with a request that a record of title be issued accordingly; and

(d) shall be registered, without fee, by the Registrar-General of Land as soon as practicable after receipt from the Minister.

(5) The Registrar-General of Land shall, in accordance with a request made under subsection (4)(c), issue an appropriate record of title in respect of the right, title, or interest in the land vested by the *Gazette* notice.

(6) For the purposes of this section, references to land that forms part of a riverbed or lakebed include land which was part of that bed before it was reclaimed.

Section 355(1): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 355(3): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 355(3): amended, on 25 November 2004, by section 34(1) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 355(4)(ab): inserted, on 25 November 2004, by section 34(2) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Section 355(4)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 355(4)(c): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 355(4)(d): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 355(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 355(5): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 355(6): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 355AA Effect of Foreshore and Seabed Act 2004 on vesting of reclamations

*[Repealed]*

Section 355AA: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 355AB Application for renewals

*[Repealed]*

Section 355AB: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 355A Application for consent to unlawful reclamation

(1) Where land has at any time (whether before or after the date of commencement of this Act) been reclaimed from the coastal marine area unlawfully, any person may apply under section 88 to the relevant consent authority for, and the consent authority may grant to that person, a coastal permit consenting to that reclamation, as if the land were still situated within the coastal marine area.

(2) The provisions of Part 6 apply in respect of any application made under subsection (1).

Section 355A: inserted, on 17 December 1997, by section 58 of the Resource Management Amendment Act 1997 (1997 No 104).

### 355B Enforcement powers against unlawful reclamations

(1) Where, since the date of commencement of this Act, any land has been unlawfully reclaimed from the coastal marine area, the powers of the Minister of

Conservation, a regional council, and the EPA under Part 12 apply to that reclaimed land as if the land were still situated within the coastal marine area.

(2) Where any land has been unlawfully reclaimed from the coastal marine area before the commencement of this Act, the Minister of Conservation, a regional council, or the EPA may seek an enforcement order against the person who reclaimed the land, or the occupier of the reclaimed land, requiring that person to take such action as, in the opinion of the Environment Court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by the carrying out of the reclamation or by the reclaimed land; and in any such case Part 12 applies with all necessary modifications.

(3) Whether or not an enforcement order has been sought or granted under subsection (2), the Minister of Conservation, a regional council, and the EPA, either jointly or severally, may take any necessary action to remove the unlawfully reclaimed land from the coastal marine area.

(4) For the avoidance of doubt, any action taken under subsection (3) to remove any reclaimed land requires a resource consent unless expressly allowed by a rule in a regional coastal plan and any relevant proposed regional coastal plan.

Section 355B: inserted, on 17 December 1997, by section 58 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 355B(1): amended, on 1 July 2020, by section 98(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 355B(2): amended, on 1 July 2020, by section 98(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 355B(3): amended, on 1 July 2020, by section 98(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 356 Matters may be determined by arbitration

(1) Except as provided in subsection (2), where—

(a) any persons are unable to agree about any matter in respect of which any of those persons has a right of appeal under this Act; and

(b) every person who has such a right of appeal agrees—

any of those persons may apply to the Environment Court for an order authorising the matter to be determined by arbitration, under the Arbitration Act 1908, on such terms and conditions as the court considers appropriate.

(2) No person may apply to the Environment Court for an order under subsection (1) in relation to any of the following matters:

(a) any matter relating to a requirement, designation, or heritage order:

(b) any matter relating to an application for a resource consent in respect of which the Minister has made a direction under section 141C:

(c) any matter relating to a proposed regional policy statement or proposed regional coastal plan.

(3) Where an order under subsection (1) is made no person may, in relation to the matter to which the order relates, lodge or proceed with any appeal without the leave of the court.

(4) Subject to the terms of any order made under subsection (1), the arbitrator has the same powers, duties, and discretions in respect of any decision to which the order relates as the consent authority who made that decision; and may, in his or her award, confirm, amend, or cancel any such decision accordingly.

(5) Except as otherwise expressly provided, nothing in this section shall limit the right of any persons to refer to arbitration any disputed matter arising under this Act.

(6) *[Repealed]*

Section 356(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 356(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 356(2)(b): amended, on 10 August 2005, by section 123 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 356(3): amended, on 1 August 2003, by section 86(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 356(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 356(6): repealed, on 1 August 2003, by section 86(2) of the Resource Management Amendment Act 2003 (2003 No 23).

### *Rights of objection*

Heading: inserted, on 10 August 2005, by section 124 of the Resource Management Amendment Act 2005 (2005 No 87).

### 357 Right of objection against certain decisions

(1) A person whose application to a territorial authority is not granted under section 10(2) has a right of objection to the territorial authority.

(2) A person whose submission to an authority is struck out under section 41D has a right of objection to the authority.

(3) A person whose application to a consent authority is determined to be incomplete under section 88(3) has a right of objection to the consent authority.

(3A) A person has a right of objection to a consent authority that decides to return the person's application under section 91C(2) or 91F(2).

(4) A person whose application or submission is declined to be processed or considered by a board of inquiry exercising the powers of a consent authority under section 99(8) has a right of objection to the board.

(5) A person who requests a certificate of compliance from the EPA under section 139(13) has a right of objection to the EPA about the EPA's decision on the request.

(6) A requiring authority whose notice to a territorial authority is declined under section 182(5) has a right of objection to the territorial authority.

(7) A requiring authority whose application to a territorial authority is not granted under section 184 has a right of objection to the territorial authority.

(8) A requiring authority or heritage protection authority whose request to a territorial authority is not granted under section 198C(4) to (5A) has a right of objection to the territorial authority.

(9) A person has a right of objection to a regional council about a public notice given by the council under section 369(11).

Section 357: replaced, on 1 October 2009, by section 142 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357(2): amended, on 18 October 2017, by section 166 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 357(3A): inserted, on 3 March 2015, by section 122 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 357(3A): amended, on 30 September 2020, by section 99 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 357(8): amended, on 4 September 2013, by section 59 of the Resource Management Amendment Act 2013 (2013 No 63).

### 357A Right of objection to consent authority against certain decisions or requirements

(1) There is a right of objection to a consent authority,—

(a) in respect of a decision of that authority, for any person who has made an application under—

(i) section 124(2) (which relates to the exercise of a resource consent while applying for a new resource consent):

(ii) section 125(1A)(b) (which relates to the lapsing of consents):

(iii) section 126(2)(b) (which relates to the cancellation of consents):

(iv) section 139 (which relates to certificates of compliance):

(v) section 139A (which relates to existing use certificates):

(b) *[Repealed]*

(c) *[Repealed]*

(d) in respect of an application or a submission that a consent authority declines to process or to consider, as provided for by section 99(8), for the person who made the application or submission:

(e) in respect of a decision of the authority under section 87E(5) to (6A), for a person who made a request under section 87D:

(f) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if—

(i) the application or review was notified; and

(ii) either no submissions were received or any submissions received were withdrawn:

(g) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if the application or review was not notified.

(2) Subsection (1)(f) and (g) apply to an application made under section 88 for a resource consent. However, they do not apply if the consent authority refuses to grant the resource consent under sections 104B and 104C. They do apply if an officer of the consent authority exercising delegated authority under section 34A refuses to grant the resource consent under sections 104B and 104C.

(3) Subsection (1)(f) and (g) apply to an application made under section 127 for a change or cancellation of a condition of a resource consent.

(4) Subsection (1)(f) and (g) apply to a review of the conditions of a resource consent under sections 128 to 132.

(5) Subsection (1)(f) and (g) apply to an application made under section 221 to vary or cancel a condition specified in a consent notice.

Section 357A: inserted, on 10 August 2005, by section 124 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 357A(1)(a)(ii): amended, on 1 October 2011, by section 56 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 357A(1)(b): repealed, on 1 October 2009, by section 143(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(1)(c): repealed, on 1 October 2009, by section 143(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(1)(e): replaced, on 1 October 2009, by section 143(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(1)(e): amended, on 4 September 2013, by section 60 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 357A(1)(f): inserted, on 1 October 2009, by section 143(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(1)(g): inserted, on 1 October 2009, by section 143(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(2): replaced, on 1 October 2009, by section 143(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(3): replaced, on 1 October 2009, by section 143(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(4): inserted, on 1 October 2009, by section 143(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357A(5): inserted, on 1 October 2009, by section 143(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 357AB Objection under section 357A(1)(f) or (g) may be considered by hearings commissioner

(1) An applicant for a resource consent who has a right of objection under section 357A(1)(f) or (g) (as applied by section 357A(2) to (5)) may, when making the objection, request that the objection be considered by a hearings commissioner.

(2) If a consent authority receives a request under this section, the authority must, under section 34A(1), delegate its functions, powers, and duties under sections 357C and 357D to 1 or more hearings commissioners who are not members of the consent authority.

Section 357AB: inserted, on 18 October 2017, by section 167 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 357B Right of objection in relation to imposition of additional charges or recovery of costs

There is a right of objection,—

(a) for a person required by a local authority to pay an additional charge under section 36(5) or costs under section 149ZD(1), to the local authority in respect of that requirement:

(ab) for a person required by the EPA to pay costs under section 149ZD(2) or (3), to the EPA in respect of that requirement:

(b) for a person required by the Minister to pay costs under section 149ZD(4), to the Minister in respect of that requirement.

Section 357B: inserted, on 10 August 2005, by section 124 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 357B(a): amended, on 19 April 2017, by section 112 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 357B(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357B(ab): inserted, on 1 July 2011, by section 13(1) of the Resource Management Amendment Act 2011 (2011 No 19).

Section 357B(b): amended, on 1 July 2011, by section 13(2) of the Resource Management Amendment Act 2011 (2011 No 19).

### 357C Procedure for making and hearing objection under sections 357 to 357B

(1) An objection under section 357, 357A,or 357B must be made by notice in writing not later than 15 working days after the decision or requirement is notified to the objector, or within any longer time allowed by the person or body to which the objection is made.

(2) A notice of objection must set out the reasons for the objection.

(2A) A notice of an objection made under section 357A(1)(f) or (g) may include a request that the objection be considered by a hearings commissioner instead of by the consent authority.

(3) In the case of an objection made under section 357 or section 357A, the person or body to which the objection is made must—

(a) consider the objection within 20 working days; and

(b) if the objection has not been resolved, give at least 5 working days' written notice to the objector of the date, time, and place for a hearing of the objection.

(4) In the case of an objection made under section 357B, the person or body to which the objection is made must—

(a) consider the objection as soon as reasonably practicable; and

(b) if the objection has not been resolved, give at least 5 working days' written notice to the objector of the date, time, and place for a hearing of the objection.

Section 357C: inserted, on 10 August 2005, by section 124 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 357C(1): replaced, on 1 October 2009, by section 144(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357C(2A): inserted, on 18 October 2017, by section 168 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 357C(3): amended, on 1 October 2009, by section 144(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357C(3)(b): amended, on 4 September 2013, by section 61 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 357C(4): amended, on 1 October 2009, by section 144(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357C(4)(b): amended, on 4 September 2013, by section 61 of the Resource Management Amendment Act 2013 (2013 No 63).

### 357CA Powers of hearings commissioner considering objection under section 357A(1)(f) or (g)

(1) This section applies if a hearings commissioner is considering an objection made under section 357A(1)(f) or (g) (*see* section 357AB).

(2) The hearings commissioner may do 1 or more of the following:

(a) require the person or body making the objection to provide further information:

(b) require the consent authority to provide further information:

(c) commission a report on any matter raised in the objection.

(3) However, the hearings commissioner must not require further information or commission a report unless he or she considers that the information or report will assist the hearings commissioner to make a decision on the objection.

Section 357CA: inserted, on 18 October 2017, by section 169 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 357D Decision on objections made under sections 357 to 357B

(1) The person or body to which an objection is made under sections 357 to 357B may—

(a) dismiss the objection; or

(b) uphold the objection in whole or in part; or

(c) in the case of an objection under section 357B(a), as it relates to an additional charge under section 36(5), remit the whole or any part of the additional charge over which the objection was made.

(2) The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.

(3) In the case of an objection made under section 357A(1)(e), if the consent authority upholds the objection in whole or in part, that decision replaces the part of the earlier decision to which the objection relates.

Section 357D: inserted, on 10 August 2005, by section 124 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 357D(1): amended, on 1 October 2009, by section 145(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 357D(1)(c): amended, on 19 April 2017, by section 113 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 357D(2): replaced, on 1 October 2009, by section 145(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 358 Appeals against certain decisions or objections

(1) Any person who has made an objection under section 357 or section 357A(1)(a), (d), (f), or (g) or section 357B may appeal to the Environment Court against the decision on the objection.

(1A) However, appeals from the following objections are excluded:

(a) an objection under section 357A(1)(f) or (g) in respect of a decision of a consent authority or hearings commissioner on an application or a review described in section 357A(2) to (4), if the right of appeal against the decision to the Environment Court in the first instance is excluded by section 120(1A):

(b) an objection to an authority under section 357(2), if the submission relates to an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent:

(c) an objection to an authority under section 357(3A) or (8):

(d) an objection to a board of inquiry under section 357(2) or (4).

(2) Notice of an appeal under this section shall be in the prescribed form, stating the reasons for the appeal, and shall be lodged with the court within 15 work-

ing days after the decision on the objection being notified to that person under section 357D(2) or within such further time as the Environment Court may in any case allow.

(3) Any person lodging an appeal under this section shall ensure that a copy of the notice of appeal is served on the consent authority or local authority at the same time as the notice is lodged with the Environment Court.

(4) This section shall not apply to any person who has already exercised a right of appeal in respect of the same matter under section 120.

Section 358(1): replaced, on 7 July 1993, by section 162 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 358(1): amended, on 18 October 2017, by section 170(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 358(1): amended, on 1 October 2009, by section 146(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 358(1): amended, on 10 August 2005, by section 125(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 358(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 358(1A): inserted, on 18 October 2017, by section 170(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 358(1A)(a): amended, on 30 September 2020, by section 100 of the Resource Management Amendment Act 2020 (2020 No 30).

Section 358(2): amended, on 10 August 2005, by section 125(2) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 358(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 358(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 359 Regional councils to pay rents, royalties, and other money received into Crown Bank Account

All rents, royalties, and other sums of money which the holders of resource consents are, by virtue of any authorisation granted under section 161 or any regulations made under section 360(1)(c), required to pay, shall be the property of the Crown and every regional council shall—

(a) collect and receive from the holders of such resource consents in its region, all such rents, royalties, and other sums of money on behalf of the Crown; and

(b) pay that money into a Crown Bank Account in accordance with the Public Finance Act 1989.

Section 359(b): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

### 360 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing the manner or content of applications, notices, or any other documentation or information as may be required under this Act:

(aa) prescribing the manner and content of forms for esplanade strips and access strips:

(ab) *[Repealed]*

(ac) prescribing the methods of making an application or requirement for a designation, the persons to be served, the times of service, and the form of application and notice required:

(b) prescribing the fees payable or the methods for calculating fees and recovering costs in respect of consent applications, tenders, and operations, or other matters under this Act:

(baa) prescribing, for the purpose of the Registrar deciding whether to waive, reduce, or postpone the payment of a fee under section 281A, the criteria that the Registrar must apply to—

(i) assess a person's ability to pay a fee; and

(ii) identify proceedings that concern matters of public interest:

(ba) prescribing those offences under this Act (including offences prescribed under paragraph (ho) or section 217M(1)(k)) that constitute infringement offences against this Act:

(bb) prescribing infringement fees (which may be different fees for different offences)—

(i) not exceeding $2,000, in the case of a natural person, for an infringement offence prescribed under this subsection:

(ii) not exceeding $4,000, in the case of a person other than a natural person, for an infringement offence prescribed under this subsection:

(iii) not exceeding $100 per stock unit for each infringement offence prescribed under paragraph (ho) that is differentiated on the basis of the number of stock units, to a maximum fee of—

(A) $2,000 for each infringement offence in the case of a natural person; and

(B) $4,000 for each infringement offence in the case of a person other than a natural person:

(bc) prescribing, in relation to infringement offences against this Act, the form and content of infringement notices and reminder notices:

(c) prescribing the amount, methods for calculating the amount, and circumstances and manner in which holders of resource consents are liable to pay for—

(i) the occupation of the coastal marine area, to the extent that it is within the common marine and coastal area; and

(ii) the occupation of the bed of any river or lake that is land of the Crown; and

(iii) the extraction of any sand, shingle, shell, and other natural materials from an area described in subparagraph (i) or (ii); and

(iv) the use of geothermal energy:

(d) requiring the holders of water permits, discharge permits, coastal permits, or land use consents granted for any activity that would otherwise contravene section 13, to keep records for any purpose under this Act, and prescribing the nature of records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished:

(da) prescribing the form and content (including conditions) of water permits and discharge permits:

(e) providing for any project or work to be a network utility operation for the purpose of section 166:

(f) prescribing the practice and procedure of the Environment Court and the form of proceedings, both under this Act and in relation to the exercise of any jurisdiction conferred on the court by any other Act:

(g) prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of Part 15; and, without limiting the generality of the foregoing, any such regulations may provide that, subject to such conditions as are specified in the regulations, specified provisions of this Act shall not apply, or specified provisions of Acts repealed or amended by this Act, or of regulations, Orders in Council, notices, schemes, rights, licences, permits, approvals, authorisations, or consents made or given thereunder shall continue to apply, during a specified transitional period:

(h) prescribing exemptions from any provision of section 15, either absolutely or subject to any prescribed conditions, and either generally or specifically or in relation to particular descriptions of contaminants or to the discharge of contaminants in particular circumstances or from particular sources, or in relation to any area of land, air, or water specified in the regulations:

(ha) deeming to be included in any regional coastal plan or proposed regional coastal plan rules that may apply generally or specifically and that may do all or any of the following:

(i) specify as controlled activities, restricted discretionary activities, discretionary activities, non-complying activities, or prohibited activities, any activities to which section 15A applies:

(ii) specify criteria to be considered in considering any application under section 88 for a coastal permit to do something that otherwise would contravene section 15A or any application under section 127 to change or cancel any condition of such a coastal permit or on a review of conditions of such a coastal permit under section 128:

(hb) prescribing any substance to be a harmful substance for the purposes of section 2(1):

(hc) prescribing any waste or other matter to be toxic or hazardous waste for the purposes of section 15C:

(hd) *[Repealed]*

(he) without limiting paragraph (d), in relation to any coastal permit to do something that otherwise would contravene section 15A, requiring the holder of the coastal permit to keep records and furnish to the Director of Maritime New Zealand information and returns as to any matters in relation to any activity carried out under the coastal permit, and prescribing the nature of the records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished:

(hf) prohibiting or permitting a discharge to which section 15B applies, or controlling a discharge to which that section applies, by prescribing conditions, limitations, or by other means, including describing the discharge by referring to the circumstances, quantities, components, or sources of the discharge:

(hg) prohibiting or permitting with or without conditions the making of a rule or the granting of a resource consent for a discharge to which section 15B applies, including describing the discharge by referring to the circumstances, quantities, components, or sources of the discharge:

(hh) prescribing any operations of a ship, aircraft, or offshore installation as a normal operation:

(hi) prescribing criteria for the exercise, in a particular hearing or class of hearing, of any of the powers specified in sections 41B to 41D:

(hj) providing for discounts on administrative charges imposed under section 36 when local authorities are responsible for applications for a resource consent and applications to change or cancel conditions under section 127, or for decisions on activities permitted under section 87BA(1)(c), not being processed within the time limits in this Act:

(hk) prescribing, for the purposes of section 35(2) and (2AA),—

(i) indicators or other matters by reference to which a local authority is required to monitor the state of the environment of its region or district:

(ia) matters by reference to which monitoring must be carried out:

(ii) standards, methods, or requirements applying to the monitoring, which may differ depending on what is being monitored:

(hl) requiring local authorities to provide information gathered under sections 35 and 35A to the Minister, and prescribing the content of the information to be provided and the manner in which, and time limits by which, it must be provided:

(hm) prescribing, for the purposes of sections 87E, 165ZFE, and 198C,—

(i) threshold amounts, which may differ for proposals of different types or in different locations; and

(ii) matters to which an authority is required to have regard in determining whether exceptional circumstances exist:

(hn) prescribing measures for the purpose of excluding stock from water bodies, estuaries, coastal lakes and lagoons, and the margins of those water bodies, estuaries, and coastal lakes and lagoons, including regulations that—

(i) apply generally in relation to stock or to specified kinds of stock (for example, dairy cattle):

(ii) apply generally in relation to water bodies, estuaries, coastal lakes and lagoons, and their margins or to specified kinds of water bodies, estuaries, coastal lakes and lagoons, and their margins:

(iii) apply different measures to different kinds of stock or to different kinds of water bodies, estuaries, coastal lakes and lagoons, and their margins:

(iv) prescribe technical requirements for the purposes of the regulations (for example, the minimum height and other specifications with which any required means of exclusion must comply, such as requirements for fencing or riparian planting):

(ho) prescribing infringement offences for the contravention of, or non-compliance with, any regulations made under paragraph (hn):

(hp) prescribing requirements that apply to the use of models (being simplified representations of systems, for example, farms, catchments, and regions) under this Act by—

(i) local authorities:

(ii) the holders of resource consents:

(iii) other persons:

(hq) provide that, despite sections 68(2) and 76(2), a more stringent rule in a plan prevails over a regulation made under paragraph (hn):

(i) providing for any other such matters as are contemplated by, or necessary for giving full effect to, this Act and for its due administration.

(2) Any regulations may apply generally or may apply or be applied from time to time by the Minister by notice, within any specified district or region of any local authority or within any specified part of New Zealand, or to any specified class or classes of persons.

(2AA) *[Repealed]*

(2A) No regulation shall be made under any of paragraphs (ha) to (he) of subsection (1) except on the recommendation of the Minister after consultation with the Minister of Transport and the Minister of Conservation.

(2B) The Minister shall not recommend the making of any regulation under any of paragraphs (ha) to (hd) of subsection (1) unless, after having consulted with the Minister of Transport and the Minister of Conservation, the Minister is of the opinion that—

(a) it is necessary or desirable to do so for all or any of the following purposes:

(i) to implement New Zealand's obligations under any international convention, protocol, or agreement, relating to the protection of the marine environment and to which New Zealand is a party:

(ii) to enable New Zealand to become a party to any international convention, protocol, or agreement, relating to the protection of the marine environment:

(iii) to implement such international practices or standards relating to the protection of the marine environment as may, from time to time, be recommended by the International Maritime Organization; or

(b) it is not inconsistent with any such purpose to do so.

(2C) The Minister may amend any schedule of any regulations made under section 360(1)(hb) or (hc) by omitting or inserting the names or a description of waste or other matter or harmful substance to make that schedule comply with the provisions of an international convention relating to the pollution of the marine environment.

(2D) Regulations made under subsection (1)(hf) and (hg) may apply—

(a) generally within New Zealand or to those areas of New Zealand specified in the regulations:

(b) generally to rules or resource consents, or to rules or resource consents made by the consent authorities specified in the regulations.

(2E) Regulations may be made under section 360(1)(hm) only on the Minister's recommendation. Before making the recommendation, the Minister must have regard to the intent of such regulations, which is to require requests for direct referral to be granted for proposals of a significant economic scale.

(2F) Regulations made under subsection (1)(hn) or (ho) may specify—

(a) that rules inconsistent with those regulations be withdrawn or amended—

(i) to the extent necessary to remove the inconsistency; and

(ii) as soon as practicable after the date on which the regulations come into force; but

(iii) without using any of the processes under Schedule 1 for changing a plan or proposed plan; and

(b) in relation to a rule made before the commencement of the regulations,—

(i) the extent to which a matter that the regulations apply to continues to have effect; or

(ii) the period for which a matter that the regulations apply to continues to have effect.

(2G) If regulations specify a matter under subsection (2F), the local authorities concerned must publicly notify that the rules have been withdrawn or amended not later than 5 working days after they are withdrawn or amended.

(3) All regulations made under subsection (1)(g) that are still in force on the day that is 5 years after the date of commencement of this Act shall expire at the close of that day.

(4) Regulations made under this section may incorporate material by reference. Schedule 1AA applies as if its references to a national environmental standard, national policy statement, or New Zealand coastal policy statement were references to regulations under section 360.

(5) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) regulations under subsection (1):

(b) a notice under subsection (2):

(c) an amendment under subsection (2C).

| **Legislation Act 2019 requirements for secondary legislation made under subsection (1) or (2C)** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

| **Legislation Act 2019 requirements for secondary legislation made under subsection (2)** | | |
|---|---|---|
| **Publication** | The maker must publish it in the *Gazette* | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019 | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 360(1)(aa): inserted, on 7 July 1993, by section 163(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 360(1)(ab): repealed, on 1 October 2009, by section 147(1) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 360(1)(ac): inserted, on 1 August 2003, by section 88(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 360(1)(baa): inserted, on 19 April 2017, by section 114(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(ba): inserted, on 2 September 1996, by section 19 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 360(1)(ba): amended, on 1 July 2020, by section 101(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 360(1)(ba): amended, on 19 April 2017, by section 114(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(bb): replaced, on 1 July 2020, by section 101(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 360(1)(bc): replaced, on 1 July 2020, by section 101(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 360(1)(c): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 360(1)(da): inserted, on 19 April 2017, by section 114(4) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(f): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 360(1)(h): amended, on 7 July 1993, by section 163(3)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 360(1)(h): amended, on 7 July 1993, by section 163(3)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 360(1)(ha): inserted, on 1 February 1995, by section 26(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 360(1)(ha)(i): amended, on 1 August 2003, by section 88(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 360(1)(hb): inserted, on 1 February 1995, by section 26(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 360(1)(hc): inserted, on 1 February 1995, by section 26(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 360(1)(hd): repealed, on 17 December 1997, by section 60(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 360(1)(he): inserted, on 1 February 1995, by section 26(2) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 360(1)(he): amended, on 1 July 2005, by section 11(3) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Section 360(1)(hf): inserted, on 17 December 1997, by section 60(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 360(1)(hg): inserted, on 17 December 1997, by section 60(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 360(1)(hh): inserted, on 17 December 1997, by section 60(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 360(1)(hi): inserted, on 10 August 2005, by section 127 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 360(1)(hi): amended, on 18 October 2017, by section 171(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hj): inserted, on 1 October 2009, by section 147(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 360(1)(hj): amended, on 18 October 2017, by section 171(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hk): replaced, on 4 September 2013, by section 62(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 360(1)(hk): amended, on 19 April 2017, by section 114(5) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hk)(ia): inserted, on 19 April 2017, by section 114(6) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hl): inserted, on 4 September 2013, by section 62(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 360(1)(hm): inserted, on 4 September 2013, by section 62(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 360(1)(hn): inserted, on 19 April 2017, by section 114(7) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hn): amended, on 1 July 2020, by section 101(3) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 360(1)(hn)(ii): amended, on 1 July 2020, by section 101(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 360(1)(hn)(iii): amended, on 1 July 2020, by section 101(4) of the Resource Management Amendment Act 2020 (2020 No 30).

Section 360(1)(ho): inserted, on 19 April 2017, by section 114(7) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hp): inserted, on 19 April 2017, by section 114(7) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(1)(hq): inserted, on 19 April 2017, by section 114(7) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 360(2A): inserted, on 1 February 1995, by section 26(3) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 360(2AA): repealed, on 24 October 2019, by section 130 of the Statutes Amendment Act 2019 (2019 No 56).

Section 360(2B): inserted, on 1 February 1995, by section 26(3) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 360(2C): inserted, on 17 December 1997, by section 60(3) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 360(2C): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 360(2D): inserted, on 17 December 1997, by section 60(3) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 360(2E): inserted, on 4 September 2013, by section 62(2) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 360(2F): inserted, on 19 April 2017, by section 114(9) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(2G): inserted, on 19 April 2017, by section 114(9) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360(4): inserted, on 1 October 2009, by section 147(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 360(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 360A Regulations amending regional coastal plans in relation to aquaculture activities

(1) The Governor-General may, by Order in Council, amend provisions in a regional coastal plan that relate to the management of aquaculture activities in the coastal marine area.

(2) An amendment made under subsection (1)—

(a) becomes part of the operative plan as if it had been notified under clause 20 of Schedule 1; and

(b) must not be inconsistent with, and is subject to, the other provisions of this Act (for example, subpart 1 of Part 7A); and

(c) may be amended—

(i) under this section; or

(ii) in accordance with Schedule 1; or

(iii) under any other provision of this Act.

(3) In this section and sections 360B and 360C, **amend provisions** includes—

(a) omitting provisions (whether other provisions are substituted or not):

(b) adding provisions.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 360A: inserted, on 1 October 2011, by section 57 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 360A(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 360B Conditions to be satisfied before regulations made under section 360A

(1) Regulations must not be made under section 360A(1) except on the recommendation of the Minister of Aquaculture.

(2) The Minister of Aquaculture must not make a recommendation unless the Minister—

(a) has first had regard to the provisions of the regional coastal plan that will be affected by the proposed regulations; and

(b) has consulted—

(i) the Minister of Conservation; and

(ii) other Ministers that the Minister of Aquaculture considers relevant to the proposed regulations; and

(iii) any regional council that will be affected by the proposed regulations; and

(iv) the public and iwi authorities in accordance with subsection (3); and

(c) is satisfied that—

(i) the proposed regulations are necessary or desirable for the management of aquaculture activities in accordance with the Government's policy for aquaculture in the coastal marine area; and

(ii) the matters to be addressed by the proposed regulations are of regional or national significance; and

(iii) the regional coastal plan to be amended by the proposed regulations will continue to give effect to—

(A) any national policy statement; and

(B) any New Zealand coastal policy statement; and

(BA) a national planning standard; and

(C) any regional policy statement; and

(iv) the regional coastal plan as amended by the proposed regulations will not duplicate or conflict with any national environmental standard; and

(d) has prepared an evaluation report for the proposed regulations in accordance with section 32 and had particular regard to that report when deciding whether to recommend the making of the regulations.

(3) For the purposes of subsection (2)(b)(iv), the Minister of Aquaculture must—

(a) notify the public and iwi authorities of the proposed regulations; and

(b) establish a process that—

(i) the Minister of Aquaculture considers gives the public and iwi authorities adequate time and opportunity to comment on the proposed regulations; and

(ii) requires a report and recommendation to be made to the Minister on those comments and the proposed regulations; and

(c) publicly notify the report and recommendation.

(4) For the purposes of subsection (2)(b)(iv), the Minister is not required to consult on matters that have already been the subject of consultation if the Minister is satisfied that the previous consultation related to subject matter that is in substance the same as that proposed in the regulations.

Section 360B: inserted, on 1 October 2011, by section 57 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 360B(2)(c)(iii)(BA): inserted, on 19 April 2017, by section 115 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360B(2)(c)(iv): amended, on 3 December 2013, for all purposes, by section 82(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 360B(2)(d): inserted, on 3 December 2013, for all purposes, by section 82(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 360C Regional council's obligations

As soon as practicable after regulations are made under section 360A(1), the regional council whose regional coastal plan is or will be amended by the regulations must—

(a) give public notice that the regulations have been made, of the date on which the regulations come into force, and that provides a general description of the nature and effect of the regulations; and

(b) amend the plan in accordance with the regulations—

(i) without using the process in Schedule 1; and

(ii) by any date specified in the regulations for that purpose or, if no date is specified, as soon as practicable after the regulations come into force.

Section 360C: inserted, on 1 October 2011, by section 57 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 360D Regulations that prohibit or remove certain rules

*[Repealed]*

Section 360D: repealed, on 1 July 2020, by section 102 of the Resource Management Amendment Act 2020 (2020 No 30).

### 360E Procedures relevant to making rules under section 360D

*[Repealed]*

Section 360E: repealed, on 1 July 2020, by section 102 of the Resource Management Amendment Act 2020 (2020 No 30).

### 360F Regulations relating to administrative charges and other amounts

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the purpose of specifying the charges that a local authority is required to fix under section 36(1) (*see* section 36(4)).

(2) Regulations made under this section—

(a) must not fix the amount to be charged by local authorities under section 36(1); but

(b) may require local authorities—

(i) to fix charges for hearings commissioners determining plan changes or resource consent applications, in accordance with a delegation from the local authority under section 34A(1), where a hearing is held:

(ii) before a hearing commences, to set the overall charge payable by the applicant for a plan change or resource consent hearing:

(c) may require local authorities to fix charges for the functions referred to in section 36(1)(b):

(d) may require local authorities to fix charges listed in section 36(1) for notices issued under section 87BA or 87BB stating whether an activity is a permitted activity.

(3) Regulations that relate to a function referred to in section 36(1)(b)—

(a) must specify the class or classes of application in respect of which each charge is to be fixed; and

(b) must include a schedule of charges to be applied by local authorities, fixed on the basis of—

(i) the class of application; and

(ii) the complexity of the class of application to which the charges apply; and

(c) may specify a class or classes of additional charges that may apply.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this section** | | |
|---|---|---|
| **Publication** | PCO must publish it on the legislation website and notify it in the *Gazette* | LA19 s 69(1)(c) |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Section 360F: inserted, on 19 April 2017, by section 116 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360F(2)(d): inserted, on 18 October 2017, by section 172 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 360F(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 360G Regulations relating to fast-track applications

*[Repealed]*

Section 360G: repealed, on 1 July 2020, by section 102 of the Resource Management Amendment Act 2020 (2020 No 30).

### 360H Regulations relating to notification of consent applications

*[Repealed]*

Section 360H: repealed, on 1 July 2020, by section 102 of the Resource Management Amendment Act 2020 (2020 No 30).

### 361 Repeals and revocations

(1) The enactments specified in Schedule 6 are hereby repealed.

(2) The regulations and orders specified in Schedule 7 are hereby revoked.

(3) Every Order in Council made under section 8A or section 165 of the Harbours Act 1950 is hereby revoked.

(4) Every Proclamation made under section 132 of the Mining Act 1926 or under the corresponding provisions of any former enactment is hereby revoked.

### 362 Consequential amendments

The enactments specified in Schedule 8 are hereby amended in the manner indicated in that schedule.

### 363 Conflicts with special Acts

Every local authority or other public body shall be guided, in the exercise of any function, power, or duty in relation to natural or physical resources imposed or conferred by any of the enactments specified in Schedule 9, by the provisions of this Act, and where any conflict arises between any such enactment and this Act, the provisions of this Act shall prevail.

# Part 15
# Transitional provisions

## 364 Application of this Part

This Part shall have effect notwithstanding the repeal of the enactments specified in Schedule 6, the revocation of the regulations and orders specified in Schedule 7, and the amendment of the enactments specified in Schedule 8.

## 365 Meaning of permission

In this Part, the term **permission** means any of the following:

(a) a consent within the meaning of the Town and Country Planning Act 1977:

(b) a licence under the Geothermal Energy Act 1953 or an authorisation under section 9(1) of that Act or powers or an authorisation under section 11 of that Act:

(c) a licence within the meaning of the Clean Air Act 1972 or an approval under section 31 of that Act in respect of any scheduled premises within the meaning of that Act:

(d) any of the following:

(i) a right in respect of water granted under section 21(3) of the Water and Soil Conservation Act 1967 (or deemed to be so granted by virtue of section 58(2) of the Water and Soil Conservation Amendment Act 1988):

(ii) any authorisation in respect of water under section 21(2) or section 21(2A) of that Act:

(iii) any right referred to in section 21(1) of that Act that was granted during the period commencing on 10 September 1966 and ending with 31 December 1968:

(iv) any right as expressly authorised by any other Act (other than the Tasman Pulp and Paper Company Enabling Act 1954), Order in Council, or Provincial Ordinance before the enactment of the Water and Soil Conservation Act 1967 in respect of any specified water:

(v) *[Repealed]*

(vi) any damming of a river or stream, and diversion or taking of natural water, and any discharge of natural water into any other natural water, and any use of natural water referred to in section 31 of the Water and Soil Conservation Amendment Act 1973:

(vii) any right to dam, divert, take, discharge into, or use water granted under section 3 of the Clutha Development (Clyde Dam) Empowering Act 1982:

(viii) any right to take or use water granted under sections 4 or 5 of the Whakatane Paper Mills, Limited, Water Supply Empowering Act 1936 and transferred to the Whakatane Board Mills Limited by the Whakatane Board Mills Limited Water Supply Act 1961 that is in force and is exercisable by that company immediately before the date of commencement of this Act:

(e) an approval by a territorial authority, under section 279 of the Local Government Act 1974, of a scheme plan of subdivision within the meaning of section 270 of that Act (or the approval of a plan of subdivision under the corresponding provisions of any former enactment).

Section 365(d)(v): repealed, on 7 July 1993, by section 164 of the Resource Management Amendment Act 1993 (1993 No 65).

### 366 Effect of this Act on existing schemes, consents, etc

Except as otherwise provided in this Part or in any regulations, from the date of commencement of this Act each of the following shall cease to have any effect:

(a) every proposed or operative regional planning scheme, maritime planning scheme, district scheme, and combined scheme under the Town and Country Planning Act 1977:

(b) every instrument referred to in section 368(2) or section 370(2):

(c) every permission referred to in any of sections 383 to 387 and 402:

(d) every bylaw referred to in section 424(2), (3), (4), or (8):

(e) every designation or requirement under the Town and Country Planning Act 1977 and every protection notice under section 36 of the Historic Places Act 1980:

(f) every notice or direction under any of the following provisions:

(i) section 24D or section 24G of the Water and Soil Conservation Act 1967:

(ii) section 35 of the Soil Conservation and Rivers Control Amendment Act 1959:

(g) every—

(i) current mining privilege within the meaning of section 2 of the Water and Soil Conservation Amendment Act 1971; and

(ii) right granted under the Water and Soil Conservation Act 1967 on an application made under section 18 of the Water and Soil Conservation Amendment Act 1971.

Section 366(d): amended, on 7 July 1993, by section 165 of the Resource Management Amendment Act 1993 (1993 No 65).

### 367 Effect of regional planning schemes

(1) Except as provided in subsection (2), every regional council and territorial authority, in carrying out any of its functions described in sections 30 and 31, shall have regard to the provisions of a regional planning scheme approved under section 24 of the Town and Country Planning Act 1977 in respect of the region or district immediately before the date of commencement of this Act, to the extent that those provisions are not inconsistent with Part 2.

(2) Subsection (1) shall cease to apply to a regional council or territorial authority once there is, in respect of the relevant region or district,—

(a) a proposed regional policy statement; and

(b) in the case of a region which includes a coastal marine area, an operative regional coastal plan (other than a regional coastal plan deemed to be constituted under section 370(1)) in respect of the coastal marine area.

*Transitional regional plans*

### 368 Existing notices, bylaws, etc, to become regional plans

(1) Where 1 or more instruments of the kind referred to in subsection (2) are in force in respect of any part of a region except in the coastal marine area immediately before the date of commencement of this Act, a regional plan (not being a regional coastal plan) shall be deemed to be constituted for that region, which plan shall—

(a) include as provisions of the plan such of those instruments as applied to that part of the region except in the coastal marine area (whether or not those instruments have been repealed or revoked by this Act); and

(b) be deemed to be operative from the date of commencement of this Act until it ceases to be operative in accordance with this Part.

(2) The instruments to which subsection (1) applies are as follows:

(a) local water conservation notices published in the *Gazette* under section 20H of the Water and Soil Conservation Act 1967:

(b) final water classifications notified under section 26F of the Water and Soil Conservation Act 1967 and classifications deemed to be classifications made under section 26E of that Act by section 25(2)(b) of the Water and Soil Conservation Amendment Act (No 2) 1971:

(c) maximum and minimum levels, minimum standards of quality, minimum acceptable flow, or maximum range of flow of any water, fixed under section 20J of the Water and Soil Conservation Act 1967:

(d) authorisations that have been notified under section 22 of the Water and Soil Conservation Act 1967:

(e) any bylaw made under—

(i) section 149 or section 150 of the Soil Conservation and Rivers Control Act 1941; or

(ii) section 34A of the Water and Soil Conservation Act 1967 or section 4 of the Water and Soil Conservation Amendment Act 1973; or

(iii) section 50 of the Land Drainage Act 1908; or

(iv) section 24(2) or section 55A of the Clean Air Act 1972—

to the extent that the subject matter of the bylaw could be the subject matter of a regional rule:

(f) notices under section 34(2) of the Soil Conservation and Rivers Control Amendment Act 1959 which were notified on or after the day that is 2 years before the date of commencement of this Act:

(g) the Clean Air Zone (Christchurch) Order 1977 (except for clause 5G) and the Clean Air Zones (Canterbury Region) Order 1984 (except for clause 5), and sections 2, 7, 8, 10, 15, 16(1), 16(2), 17, 19, and 20 of, and Schedules 1 and 2 of, the Clean Air Act 1972 and the Clean Air (Smoke) Regulations 1975, in so far as they apply in relation to the clean air zones declared by those orders.

### 369 Provisions deemed to be regional rules

(1) A provision that is deemed by section 368(1) to be a provision of a regional plan and that, expressly or by implication and whether or not subject to conditions,—

(a) authorises anything without further consent or approval being required from any person under any enactment, regulation, or order referred to in Schedules 6, 7, or 8, is deemed to be a regional rule in respect of a permitted activity; or

(b) authorises anything if the consent or approval of any person is obtained from any person under any enactment, regulation, or order referred to in Schedules 6, 7, or 8, is deemed to be a regional rule in respect of a discretionary activity; or

(c) prohibits anything, or provides that it is an offence to do or omit to do anything, is deemed to be a regional rule having the effect of making an activity to which that act or omission relates a non-complying activity—

and the provisions of this Act shall apply accordingly.

(2) Notwithstanding subsection (1), a bylaw shall be deemed by subsection (1) to be a regional rule only if the regional council for the region concerned has publicly notified the relevant plan in accordance with section 376.

(3) Where provisions of a final water classification of the kind referred to in section 368(2)(b) are deemed to constitute provisions of a regional plan under section 368(1), the plan shall be deemed to include a regional rule requiring the

minimum standards of water quality referred to in the classification to be maintained after reasonable mixing and a provision that the objective of that rule is to promote in the public interest the conservation and the best use of that water.

(4) A consent authority may grant a discharge permit, or a coastal permit to do something that would otherwise contravene section 15, that does not meet the minimum standards of water quality as required by the regional rule under subsection (3) if it is satisfied—

(a) that exceptional circumstances justify the granting of the permit; or

(b) the discharge is of a temporary nature; or

(c) the discharge is associated with necessary maintenance work—

and that it is consistent with the purpose of this Act to do so.

(5) Without limiting section 113, where, in accordance with subsection (4), a consent authority grants a discharge permit that does not meet the minimum standards of water quality as required by a regional rule pursuant to subsection (3), the consent authority shall include in its decision its reasons for granting the permit.

(6) In addition to any other conditions imposed under this Act, a permit granted pursuant to subsection (4)(a) or (b) shall include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of section 107(1) and of any relevant regional rules.

(7) Where provisions of an authorisation of the kind referred to in section 368(2)(d) are deemed to constitute provisions of a regional plan under section 368(1) and the authorisation authorises the damming of a river or stream, or rivers or streams within any specified area, the plan shall be deemed to include a regional rule to the effect that such an activity is a permitted activity, but no person shall exercise the rights conferred by any such authorisation so as to adversely affect any land owned or occupied by another person, without that other person's written consent.

(8) Where any provision of a bylaw of the kind referred to in section 368(2)(e)(i) or any provision of a notice of the kind referred to in section 368(2)(f) is deemed to constitute a provision of a regional plan under section 368(1) and the provision previously allowed any application for a permit or dispensation to be made without notice, that provision shall continue to apply:

provided that, if the regional council considers special circumstances exist, it may, in its discretion, require any such application to be notified.

(9) Where provisions of a notice of the kind referred to in section 368(2)(f) are deemed to constitute provisions of a regional plan under section 368(1), the provisions shall cease to be operative on the expiry of 2 years from the date on which the notice was notified under section 34(2) of the Soil Conservation and Rivers Control Amendment Act 1959.

(10) Where the maximum and minimum levels, minimum standards of quality, minimum acceptable flow, or maximum range of flow of any water fixed under section 20J of the Water and Soil Conservation Act 1967 are deemed to constitute the provisions of a regional plan under section 368(1), the plan shall be deemed to include—

(a) a rule to the effect that no permit shall be granted in contravention of such provisions; and

(b) a rule to the effect that the exercise of existing consents shall be affected in accordance with section 68(7).

(11) Where an order of the kind referred to in section 368(2)(g) is deemed to constitute provisions of a regional plan under section 368(1), the plan shall be deemed to include a rule to the effect that the regional council may, by public notice,—

(a) authorise or prohibit the use, in a clean air zone, of any class of fuel specified in the notice; and

(b) authorise or prohibit the installation or use, in a clean air zone, of any class of fuel-burning equipment specified in the notice.

(12) A regional plan deemed to be constituted under section 368 may, at any time, in accordance with Schedule 1, be changed so as to exclude or modify the application of any of subsections (3) to (11) to the plan.

(13) Sections 357 to 358 (which deal with rights of objection and appeal against certain decisions) apply, with all necessary modifications, in respect of every public notice under subsection (11).

Section 369(4): replaced, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(4): amended, on 17 December 1997, by section 61 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 369(5): replaced, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(6): replaced, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(7): replaced, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(8): inserted, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(9): inserted, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(10): inserted, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(11): inserted, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(12): inserted, on 7 July 1993, by section 166 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 369(13): inserted, on 1 August 2003, by section 89 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 369(13): amended, on 10 August 2005, by section 126 of the Resource Management Amendment Act 2005 (2005 No 87).

*Transitional regional coastal plans*

### 370 Existing notices, bylaws, etc, to become regional coastal plans

(1) Where 1 or more instruments of the kind referred to in subsection (2) are in force in respect of any part of a region within the coastal marine area immediately before the date of commencement of this Act, a regional coastal plan shall be deemed to be constituted for that region, which plan shall—

(a) include as provisions of the plan such of those instruments as applied to that part of the region within the coastal marine area (whether or not those instruments have been repealed or revoked by this Act); and

(b) be deemed to be operative from the date of commencement of this Act; and

(c) cease to be operative on the date upon which a regional coastal plan prepared in the manner set out in Schedule 1 becomes operative for that region.

(2) The instruments to which subsection (1) applies are as follows:

(a) operative district schemes, combined schemes, and maritime planning schemes under the Town and Country Planning Act 1977:

(b) determinations of the Minister of Fisheries under section 4(2) of the Marine Farming Act 1971 and notified in the *Gazette* under section 4(4) of that Act that any areas shall not be available for leasing or licensing under that Act:

(c) instruments of the kinds referred to in section 368(2):

(d) declarations notified in the *Gazette* by the Minister of Fisheries under section 14E of the Marine Farming Act 1971 that an area is a spat-catching area.

(3) Where, in respect of the whole or any part of the coastal marine area of a region, any provision of a proposed district scheme, maritime planning scheme, or combined scheme, or any proposed change or variation or review, under the Town and Country Planning Act 1977 has been publicly notified before the date of commencement of this Act, that provision shall be deemed to constitute a provision of a proposed regional coastal plan for that region.

(4) Notwithstanding section 64(4), a request under clause 21 of Schedule 1 to a regional council to change a regional coastal plan deemed to be constituted under subsection (1) may only be made by one of the following persons:

(a) the Minister of Conservation:

(b) the territorial authority for any district that is within or adjoins the relevant region.

(5) However, subsection (4) does not apply to a plan change request made under subpart 4 of Part 7A.

Section 370(2)(d): inserted, on 7 July 1993, by section 167(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 370(3): amended, on 7 July 1993, by section 167(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 370(4): replaced, on 7 July 1993, by section 167(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 370(5): inserted, on 1 October 2011, by section 58 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 371 Provisions deemed to be regional rules

(1) A provision of a district scheme or a combined scheme under the Town and Country Planning Act 1977 that is deemed by section 370 to be a provision of a regional coastal plan shall also be deemed to be—

(a) a regional rule in respect of a controlled activity where, under the district scheme or combined scheme, the provision provided for specified controls and powers in respect of any controlled use within the meaning of the Town and Country Planning Act 1977:

(b) a regional rule in respect of a discretionary activity where the provision of the district scheme or combined scheme required an application for approval as a conditional use within the meaning of the Town and Country Planning Act 1977:

(c) a regional rule in respect of a discretionary activity where the provision of the district scheme or combined scheme required an application for dispensation from any provisions of the scheme in accordance with section 76 of the Town and Country Planning Act 1977—

and the provisions of this Act shall apply accordingly.

(2) Any determination by the Minister of Fisheries described in section 370(2)(b) shall be deemed to be a regional rule having the effect of making marine farming within the meaning of the Marine Farming Act 1971 a prohibited activity in any areas specified in that determination.

(2A) Any declaration by the Minister of Fisheries described in section 370(2)(d) shall be deemed to be a regional rule having the effect of making spat catching—

(a) a controlled activity, when the person carrying on the activity requires exclusive occupation of the area specified in the determination; or

(b) a permitted activity, in every other case.

(3) Except as provided in subsections (1) and (2), sections 368 and 369 shall apply in respect of regional coastal plans as if every reference in those sections to—

(a) a regional plan, were a reference to a regional coastal plan; and

(b) section 368(1), were a reference to section 370(1); and

(c) subject to section 370(4), section 65, were a reference to section 64; and

(d) a discharge permit, were a reference to a coastal permit to do something that would otherwise contravene section 15.

(4) Where any former district scheme or combined scheme provided, in accordance with section 36(7) of the Town and Country Planning Act 1977, that any application or class of application could be made without notice, that provision shall continue to apply.

(5) Subsections (1) to (4) shall apply, with all necessary modifications, in respect of a provision of any proposed district scheme or combined scheme or maritime planning scheme, or any change, review, or variation, under the Town and Country Planning Act 1977 that has been publicly notified before the date of commencement of this Act and to any variation, publicly notified under section 378(1).

Section 371 heading: amended, on 7 July 1993, by section 168 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 371(1)(c): replaced, on 7 July 1993, by section 168(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 371(2A): inserted, on 7 July 1993, by section 168(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 371(3)(c): replaced, on 7 July 1993, by section 168(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 371(3)(d): inserted, on 7 July 1993, by section 168(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 371(5): inserted, on 7 July 1993, by section 168(4) of the Resource Management Amendment Act 1993 (1993 No 65).

## 372 Power of Minister of Conservation to give directions relating to restricted coastal activities

(1) Subject to subsection (3), the Minister of Conservation may, from time to time, having regard to the matters set out in paragraphs (a) and (b) of section 68(4) and such other matters as the Minister considers appropriate, direct a regional council, in accordance with subsection (2), to—

(a) treat any specified activity in the coastal marine area as a restricted coastal activity for the purposes of this Act, whether or not any regional coastal plan is deemed to be operative in that region under section 370:

(b) make any specified change to a regional coastal plan deemed to be operative under section 370 for the purpose of identifying in the plan what activities are restricted coastal activities:

(c) deal with any specified application for permission or for a coastal permit in respect of any activity in the coastal marine area as an application for a restricted coastal activity,—

and the regional council shall forthwith comply with that direction accordingly.

(2) A direction under subsection (1) shall be in writing, and shall be served on the relevant regional council.

(3) A direction under subsection (1)—

(a) shall not affect any application for a permission or a coastal permit in respect of which the regional council has notified its decision; and

(b) shall not affect any other application for a permission or a coastal permit in respect of which the regional council has, before the date upon which the direction is served, fixed a commencement date for a hearing, which date is less than 6 working days after the date upon which the direction is served; and

(c) shall cease to have effect upon the date that a proposed regional coastal plan is made operative under clause 20 of Schedule 1.

(4) Upon receipt of a direction under subsection (1), the regional council so directed shall, as soon as reasonably practicable,—

(a) without using the process in Schedule 1, make any change to a regional coastal plan specified in the direction for the purpose of identifying in the plan what activities are restricted coastal activities, and from the date of the change the activities concerned shall be deemed to be restricted coastal activities; and

(b) where the direction specifies that an application for a permission or for a coastal permit in respect of any activity in the coastal marine area shall be dealt with as an application for a restricted coastal activity, serve a copy of the direction on every applicant for that permission or coastal permit and every person who has made a submission in respect of that application; and

(c) give public notice of the direction, including a description of—

(i) any change to be made to any regional coastal plan; and

(ii) any application for permission or for a coastal permit specified in the direction.

(5) Other provisions of this Act relating to the changing of a regional coastal plan do not apply to a change made in accordance with a direction given under subsection (1).

(6) Subject to subsection (3), a direction given under this section shall take effect on the date that it is served, regardless of when the regional council makes any change to any regional coastal plan specified in the direction.

(7) Until such time as a proposed regional coastal plan is notified in respect of a region, the Minister of Conservation may, from time to time, direct the relevant regional council as to—

(a) matters which the regional council shall have regard to in considering any application or class of applications for a coastal permit; and

(b) the conditions that should or should not be included in any coastal permit or class of coastal permits; and

(c) such other matters as the Minister thinks fit.

(8) Subsections (2) and (3) shall apply to any directions given under subsection (7), except that those directions shall cease to have effect on the date that a proposed regional coastal plan is notified under clause 5 of Schedule 1.

Section 372(3)(c): amended, on 1 August 2003, by section 90 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 372(4)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

*Transitional district plans*

### 373 Existing district and maritime schemes to become district plans

(1) Where any operative district scheme or combined scheme or maritime planning scheme under the Town and Country Planning Act 1977 is in force in respect of the whole or any part of a district immediately before the date of commencement of this Act, a district plan shall be deemed to be constituted for that district, which plan shall—

(a) include as provisions of the plan such of the provisions of those schemes as apply to the district; and

(b) be deemed to be operative from the date of commencement of this Act until it ceases to be operative in accordance with this Act.

(2) Where any proposed district scheme, combined scheme, or maritime planning scheme, or any change, review, or variation under the Town and Country Planning Act 1977 in respect of the whole or part of a district has been publicly notified before the date of commencement of this Act, a proposed plan shall be deemed to be constituted for that district, except for the purposes of section 378.

(3) *[Repealed]*

(4) Where, immediately before the date of commencement of this Act,—

(a) no operative district scheme, combined scheme, or maritime planning scheme under the Town and Country Planning Act 1977 is in force; and

(b) no proposed district scheme, combined scheme, or maritime planning scheme, or proposed change or variation, under that Act has been publicly notified—

in respect of any district, then, for the purposes of this Act every use of land shall be deemed to be a discretionary activity.

Section 373(2): replaced, on 7 July 1993, by section 169(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 373(3): repealed, on 7 July 1993, by section 169(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 373(4): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 373(4): amended, on 7 July 1993, by section 169(3) of the Resource Management Amendment Act 1993 (1993 No 65).

### 374 Provisions deemed to be district rules

(1) A provision of a district scheme or combined scheme that is deemed by section 373 to be a provision of a district plan shall be deemed to be—

(a) a district rule in respect of a controlled activity where, under the district scheme or combined scheme, the provision provided for specified controls and powers in respect of any controlled use within the meaning of the Town and Country Planning Act 1977; or

(b) a district rule in respect of a discretionary activity where the provision of the district scheme or combined scheme required an application for approval as a conditional use within the meaning of the Town and Country Planning Act 1977; or

(c) a district rule in respect of a discretionary activity where the provision of the district scheme or combined scheme required an application for dispensation from any provisions of the scheme in accordance with section 76 of the Town and Country Planning Act 1977—

and the provisions of this Act shall apply accordingly.

(2) Where a former district scheme or combined scheme provided, in accordance with section 36(7) of the Town and Country Planning Act 1977, that any application or class of application could be made without notice, that provision shall continue to apply.

(3) Except as otherwise provided in subsection (1), a provision that is deemed by section 373 to be a provision of a district plan and that, expressly or by implication and whether or not subject to conditions,—

(a) authorised anything without further consent or approval from the former consent authority being required, is deemed to be a district rule in respect of a permitted activity; or

(b) authorised anything if the consent or approval of the former consent authority was obtained, is deemed to be a district rule in respect of a discretionary activity; or

(c) prohibited anything, or provided that it was an offence to do or not to do anything, is deemed to be a district rule having the effect of making an activity to which the act or omission relates a non-complying activity,—

and the provisions of this Act shall apply accordingly.

(4) Where a plan or proposed plan or change is deemed to be constituted under section 373, the plan shall be deemed to include a rule to the effect that every activity which—

(a) is not specifically referred to in the plan; and

(b) immediately before the commencement of this Act, was subject to—

(i) controls, restrictions, or prohibitions and required the consent or approval of any person or body under any enactment or regulation referred to in Schedules 6 or 7 or 8; or

(ii) any order, bylaw, or scheme or any other exercise of delegated authority (however described) and made or exercisable under any such enactment or regulation—

which, because of the coming into force of this Act, can no longer be exercised or enforced—

is a non-complying activity.

(5) Subsections (1) to (4) shall apply, with all necessary modifications, in respect of a provision of any proposed district scheme or combined scheme or maritime planning scheme, or any change, review, or variation, under the Town and Country Planning Act 1977 that has been publicly notified before the date of commencement of this Act, and to any variation, publicly notified under section 378(1).

Section 374(1)(c): replaced, on 7 July 1993, by section 170(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 374(4): replaced, on 7 July 1993, by section 170(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 374(5): inserted, on 7 July 1993, by section 170(2) of the Resource Management Amendment Act 1993 (1993 No 65).

## 375 Transitional provisions for public utilities

(1) Subject to subsection (2), every district plan or any proposed district plan constituted under section 373 shall be deemed to include—

(a) a rule that each of the following is a permitted activity throughout the district:

(i) transformers and lines for conveying electricity at a voltage up to and including 110 KV with a capacity up to and including 100 MVA:

(ii) household, commercial, and industrial connections to gas, water, drainage, and sewer pipes:

(iii) water and irrigation races, drains, channels, and pipes and necessary incidental equipment:

(iv) lines as defined by section 5 of the Telecommunications Act 2001:

(v) pipes for the distribution (but not transmission) of natural or manufactured gas at a gauge pressure not exceeding 2 000 kilopascals and necessary incidental equipment, including household connections and compressor stations:

(vi) pipes for the conveyance or drainage of water or sewage, and necessary incidental equipment including household connections:

(vii) lighthouses, navigational aids, and beacons; and

(b) a rule that each of the following is a discretionary activity throughout the district and shall be allowed upon the condition that the territorial authority is satisfied that the proposed location is suitable, namely:

(i) transformers and lines for conveying electricity at a voltage exceeding 110 KV and a capacity exceeding 100 MVA:

(ii) pipes for the transmission of natural or manufactured gas at a gauge pressure exceeding 2 000 kilopascals and necessary incidental equipment, including compressor stations.

(2) The application of this section may be excluded or modified at any time in accordance with Schedule 1.

(3) This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.

Section 375(1): amended, on 7 July 1993, by section 171(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 375(1)(a)(iv): replaced, on 10 August 2005, by section 128 of the Resource Management Amendment Act 2005 (2005 No 87).

Section 375(2): replaced, on 7 July 1993, by section 171(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 375(3): replaced, on 7 July 1993, by section 171(2) of the Resource Management Amendment Act 1993 (1993 No 65).

*Provisions relating to all plans*

### 376 Transitional plans to be notified and available

The regional council or territorial authority of a region or district for which there is deemed to be a plan by virtue of any of sections 368, 370, and 373 or by virtue of the operation of section 378 shall—

(a) as soon as reasonably practicable, publicly notify the fact that as from the date of commencement of this Act the plan became operative and a description of the instruments or schemes whose provisions are included as provisions of that plan, and send a copy of the notice to every person and authority referred to in clause 5 of Schedule 1; and

(b) keep in accordance with section 35 copies of the plan at its principal office and in a form readily accessible to the public.

### 377 Obligation to review transitional plans

(1) A local authority shall review a plan constituted under this Part and, subject to subsection (2), section 79 shall apply to such review.

(2) Where the plan includes any provisions of—

(a) a district scheme or combined scheme or a maritime planning scheme, section 79 shall apply to a review of that plan under subsection (1) as if the reference in section 79(1) and (2) to the tenth year after the plan became operative were a reference to the date upon which that scheme would have been due for review under section 59 or section 109(3) of the Town and Country Planning Act 1977 if this Act had not been enacted:

(b) 2 or more district schemes or combined schemes or maritime planning schemes, section 79 shall apply to a review of that plan under subsection (1) as if the reference in section 79(1) and (2) to the tenth year after the plan became operative were a reference to the latest date upon which any of those schemes would have been due for review under section 59 or section 109(3) of the Town and Country Planning Act 1977.

(3) Where the plan includes any provisions of a district scheme, combined scheme, maritime planning scheme, or instrument that is deemed to have been completed and made operative under section 378, section 79 shall apply to a review of that plan under subsection (1) as if the reference in section 79(1) and (2) to the tenth year after the plan became operative were a reference to the fifth year after the provisions of the plan made operative under section 378 became operative.

(4) Subsections (1) and (2) are subject to subsection (3).

### 378 Proceedings in relation to plans

(1) Subject to subsection (3), all proposed district schemes, combined schemes, and maritime planning schemes, and all changes and reviews, under the Town and Country Planning Act 1977 that were publicly notified but not operative before the date of commencement of this Act, and all variations (whether publicly notified before or after the commencement of this Act) to such proposed schemes, changes, or reviews may be continued and completed in all respects as if the Town and Country Planning Act 1977 continued in force, and, when completed, shall have effect under this Part as if they had been completed and made operative before the date of commencement of this Act.

(1A) Notwithstanding subsection (1), any local authority shall take into account the provisions of this Act in relation to any variation publicly notified on or after 28 May 1992.

(1B) All variations to which subsection (1) applies, whether or not completed before the commencement of this subsection, are hereby validated and declared to have been lawfully commenced, notwithstanding that they may have been held

invalid in any judicial proceedings before the commencement of this subsection.

(1C) For the purposes of section 294 (which provides for a review of its decision by an Environment Court), the validation of the variations under subsection (1B) is deemed to be a change of circumstances.

(2) All proceedings relating to the preparation, amendment, review, or revocation of any instrument referred to in section 368(2) that were commenced before the date of commencement of this Act and have not been completed at that date shall be continued and completed in all respects—

(a) in cases where they have been wholly or partly heard, as if the enactments repealed by this Act continued in force; and

(b) in all other cases, as if they had been commenced under this Act which shall apply accordingly,—

and all such proceedings, when completed, shall have effect under this Part after they have been completed as if they had been completed before the date of commencement of this Act.

(3) Subject to section 427(7), where any proposed district scheme, maritime planning scheme, or combined scheme under the Town and Country Planning Act 1977, or change to or variation or review of any such scheme under that Act, relates solely or in part to the whole or any part of the coastal marine area of a region, all functions, powers, and duties under subsection (1) in relation to such proposed scheme, change, variation, or review, or part thereof, as the case may be, shall, on the date of commencement of this Act, transfer to the relevant regional council.

(4) Any person, who if this Act had not been enacted, had—

(a) a right of appeal to the High Court on a question of law; or

(b) a right to make any application for review—

in respect of any proceedings to which subsection (1) or (2) applies shall continue to have that right, and that right may be exercised as if the enactments repealed by this Act continued in force.

Section 378(1): replaced, on 7 July 1993, by section 172 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 378(1A): inserted, on 7 July 1993, by section 172 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 378(1B): inserted, on 7 July 1993, by section 172 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 378(1C): inserted, on 7 July 1993, by section 172 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 378(1C): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 379 Declarations

Section 310 shall have effect as if the following paragraph were added:

(g) whether provisions of any instrument of a kind referred to in section 368(2) are deemed to constitute provisions of a plan under any of sections 368 and 370, and whether any such provision or any provision of a plan under section 373 is deemed by this Part to be a rule in respect of a permitted activity, a controlled activity, a discretionary activity, or a non-complying activity.

Section 379: amended, on 7 July 1993, by section 173 of the Resource Management Amendment Act 1993 (1993 No 65).

*Transitional notices, directions, etc*

### 380 Existing notices which continue in effect

Every notice given under any of the following enactments and that is in force immediately before the date of commencement of this Act shall continue to have effect, and the enactment under which it was given shall continue to apply, as if this Act had not been enacted:

(a) section 6 of the Noise Control Act 1982 (which relates to noise abatement notices):

(b) section 77 of the Town and Country Planning Act 1977 (which imposes a duty to keep objectionable elements to a minimum):

(c) section 94 of the Town and Country Planning Act 1977 (which relates to enforcement of district schemes):

(d) section 177 of the Harbours Act 1950 (which relates to the removal of unauthorised works):

(e) section 29A of the Clean Air Act 1972 (which relates to the shutting down of processes) and section 42 of that Act (which relates to the furnishing of information).

### 381 Existing notices deemed to be abatement notices

(1) Subject to subsection (2), every notice given under any of the following enactments that is in force (whether or not subject to any appeal) immediately before the date on which this Act commences shall be deemed to be an abatement notice served on a person under section 322 and the provisions of this Act (other than those giving rights of appeal) shall apply accordingly:

(a) sections 24D and 24G of the Water and Soil Conservation Act 1967 (which authorises restrictions on and cessation of the exercise of rights relating to water):

(b) section 35 of the Soil Conservation and Rivers Control Amendment Act 1959 (which authorises requirements relating to soil conservation).

(2) Any right of appeal against a notice of a kind referred to in subsection (1) that exists at the date of commencement of this Act shall continue after that date as if the enactment giving that right continued in force.

### 382 Existing direction deemed to be excessive noise direction

Every direction given under section 9(3) of the Noise Control Act 1982 and that is in force immediately before the date of commencement of this Act shall be deemed to be an excessive noise direction given under section 327 on the same conditions; and the provisions of this Act shall apply accordingly.

### 382A Return of property seized under Noise Control Act 1982

Any property seized and impounded under the provisions of section 7 or section 11 of the Noise Control Act 1982 which has not been returned to the owner, or person from whom it was seized, at the date of commencement of this Act shall be deemed to be property seized under section 328; and the provisions of this Act shall apply accordingly.

Section 382A: inserted, on 7 July 1993, by section 174 of the Resource Management Amendment Act 1993 (1993 No 65).

*Transitional resource consents*

### 383 Existing permissions to become land use consents

Every permission—

(a) granted under any of Parts 2, 4, and 5 of the Town and Country Planning Act 1977 (or the corresponding provisions of any former enactment) in respect of any area in a district; and

(b) in force immediately before the date of commencement of this Act—

shall be deemed to be a land use consent granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of this Act) by the appropriate territorial authority; and the provisions of this Act shall apply accordingly.

### 383A Existing permissions to allow use of beds of lakes and rivers

(1) Every Order in Council made under section 175 of the Harbours Act 1950 and every approval granted under section 178(1)(b) or (2) of that Act (or the corresponding provisions of any former enactment) in respect of any area in a region which is river bed or lake bed, and that is in force immediately before the date of commencement of this Act, shall be deemed to be a resource consent required under section 13, and to have been granted under this Act on the same conditions (including those set out in any enactment, whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of this Act) by the appropriate regional council; and the provisions of this Act shall apply accordingly.

(2) Notwithstanding section 13 but subject to section 418(3), (3A), (3B), and (3C), a person who is the holder of a resource consent referred to in subsection (1) shall not thereby be authorised to carry out any activity referred to in section 13 except where that person also holds every other permission, licence, permit, or approval that, immediately before the date of commencement of this Act, he or she was legally required to hold in order to carry out the activity.

(3) Notwithstanding subsection (2), every resource consent deemed to be granted by subsection (1) shall be deemed to include a condition enabling the holder of the consent, at any time within 3 years after the date of commencement of this Act, to apply to the relevant regional council under section 127(1) to change the permit for the purpose of including, as conditions of that permit, matters that could have been included in a licence, permit, or approval required before 1 October 1991 and of enabling the consent to authorise the activity.

Section 383A: inserted, on 7 July 1993, by section 175 of the Resource Management Amendment Act 1993 (1993 No 65).

### 384 Existing permissions to become coastal permits

(1) Every—

(a) permission granted under any of Parts 2, 4, and 5 of the Town and Country Planning Act 1977 (or the corresponding provisions of any former enactment); and

(b) licence or permit granted under section 146A or section 156 or section 162 or section 165 of the Harbours Act 1950, Order in Council made under section 175 of that Act, and every approval granted under section 178(1)(b) or (2) of that Act (or the corresponding provisions of any former enactment); and

(c) licence, permit, or authority granted under any Act that was, at the time of its enactment, a special Act within the meaning of the Harbours Act 1950 or any other enactment that provides for any right of occupation—

in respect of any area in the coastal marine area, being a permission, licence, permit, or authority in force immediately before the date of commencement of this Act, shall be deemed to be a coastal permit granted under this Act on the same conditions (including those set out in any enactment, whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of this Act) by the appropriate consent authority; and the provisions of this Act shall apply accordingly.

(2) Notwithstanding section 12, a person who is the holder of—

(a) a permission referred to in subsection (1)(a); or

(b) a licence, permit, or approval referred to in subsection (1)(b); or

(c) a licence, permit, or authority referred to in subsection (1)(c); or

(d) a coastal permit granted by virtue of the operation of any of the provisions of sections 390, 390A, 390C, and 393—

shall not thereby be authorised to carry out any activity referred to in section 12, except where that person also holds every other permission, licence, permit, or approval referred to in subsection (1)(a) or subsection (1)(b) that, immediately before the date of commencement of this Act, he or she was legally required to hold in order to carry out the activity.

(3) Notwithstanding subsection (2), every coastal permit deemed to be granted by subsection (1) shall be deemed to include a condition enabling the holder of the permit, at any time until the proposed regional coastal plan is notified, to apply to the relevant regional council under section 127(1) to change the permit for the purpose of including, as conditions of that permit, matters that could have been included in a permission referred to in subsection (1)(a) or a licence, permit, or approval referred to in subsection (1)(b) or a licence, permit, or authority referred to in subsection (1)(c), and of enabling the permit to authorise the activity.

(4) Notwithstanding section 127, any application under that section to change a permit pursuant to subsection (3) shall be notified only to the Minister of Conservation and any other resource consent holder who may be affected by the activity which is the subject of the application.

(5) This section applies subject to section 12 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

Section 384: replaced, on 7 July 1993, by section 176 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 384(5): inserted, on 1 January 2005, by section 21 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 384A Right of port companies to occupy coastal marine area

(1) Every port company which considers that—

(a) it had, on 30 September 1991, a right to occupy the coastal marine area adjacent to any port related commercial undertaking; and

(b) such occupation is required for any purpose associated with the operation and management of that undertaking—

may, in consultation with the appropriate regional council, prepare a draft coastal permit to authorise that occupation.

(2) Every such draft coastal permit shall state that it is to expire on the 30 September 2026 or such earlier date as the port company specifies.

(3) Every such draft coastal permit shall identify the location to which it relates; and may identify the location by a plan attached to the draft permit.

(4) The draft permit and any plan shall be forwarded to the Minister of Transport, along with written notice of any disagreements between the port company and regional council, and submissions by the port company and regional council on the disagreements, before 30 November 1993.

(5) The Minister of Transport shall consider—

(a) the draft permit; and

(b) any disagreements; and

(c) the port company plan approved or determined under section 22 of the Port Companies Act 1988; and

(d) any other matter the Minister considers appropriate—

to determine the extent to which a coastal permit authorising occupation is required to enable the port company to manage and operate the port related commercial undertakings acquired under the Port Companies Act 1988.

(6) Before making any determination under subsection (5), the Minister of Transport shall consult with the Minister of Conservation, the appropriate regional council, any territorial authority having jurisdiction in the area adjacent to the coastal marine area concerned, and the port company.

(7) The Minister of Transport shall approve the draft coastal permit and any plan, with or without modification, but the proposed expiry date shall not be altered.

(8) The Minister of Transport's decision, which shall be a coastal permit, shall be sent to the Minister of Conservation, the appropriate regional council, territorial authority, and port company before 31 March 1994; and that decision shall be final unless an application for review under the Judicial Review Procedure Act 2016, or proceedings seeking a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision, is made.

(9) The appropriate regional council shall ensure that a record of the coastal permit, as decided by the Minister of Transport, is available to the public as required under section 35.

(10) Where—

(a) a regional council receives an application from any person, except a port company; and

(b) that application is for a coastal permit to occupy part of the coastal marine area which may be all or part of any area which a port company may have a right to occupy; and

(c) the written consent of the port company to the granting of the permit has not been obtained; and

(d) the Minister of Transport has not sent the regional council a decision on a coastal permit under subsection (8) relating to all or part of the area to which the application relates—

the consent authority shall, notwithstanding any other provision, adjourn any consideration or hearing of the application until the Minister of Transport has sent his or her decision:

provided that, where the application is made by a person who owns or has an interest in land immediately adjacent to the coastal marine area sought to be

occupied, the application shall not be adjourned but shall in all cases be publicly notified.

(11) For the purposes of this section—

**port company** and **port related commercial undertaking** have the same meanings as in section 2(1) of the Port Companies Act 1988

(12) For the purposes of this Act, the consent authority for any coastal permit approved under this section is the regional council whose consent, but for this section, would normally be required.

Section 384A: inserted, on 7 July 1993, by section 177 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 384A(8): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

Section 384A(11) **occupy**: repealed, on 1 January 2005, by section 22 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 384A(12): inserted, on 2 September 1996, by section 20 of the Resource Management Amendment Act 1996 (1996 No 160).

### 385 Existing clean air permissions to become discharge permits

(1) Every permission granted under—

(a) section 25 of the Clean Air Act 1972; or

(b) section 31 of that Act—

(or the corresponding provisions of any former enactment) that is in force immediately before the date of commencement of this Act shall be deemed to be a discharge permit granted under this Act on the same conditions (including those set in any enactment whether or not repealed by this Act) by the appropriate consent authority, and the provisions of this Act shall apply accordingly.

(2) Without limiting subsection (1), every permission to which subsection (1) applies shall be deemed to include, as conditions of the permission, sections 25(7), 26(8), and 31 of the Clean Air Act 1972.

(3) Notwithstanding section 15, a discharge permit deemed to be granted by—

(a) subsection (1)(a) does not authorise any person to do anything referred to in section 15 except where doing such a thing—

(i) is also authorised by a discharge permit deemed to be granted by subsection (1)(b) or by virtue of the operation of section 391 or section 391A; or

(ii) immediately before the date of commencement of this Act could lawfully have been carried out without being authorised by a permission referred to in subsection (1)(b):

(b) subsection (1)(b) does not authorise any person to do anything referred to in section 15 except where doing such a thing—

(i) is also authorised by a discharge permit deemed to be granted by subsection (1)(a) or by virtue of the operation of section 391 or section 391A; or

(ii) immediately before the date of commencement of this Act could lawfully have been carried out without being authorised by a permission referred to in subsection (1)(a).

(4) Notwithstanding subsection (2), every discharge permit deemed to be granted by subsection (1) shall be deemed to include a condition enabling the holder of the permit, at any time within 2 years after the date of commencement of this Act or until the date of expiry of the permit, whichever first occurs, to apply to the relevant regional council under section 127(1) to change the permit for the purpose of including, as conditions of that consent, matters that could have been included in a permission referred to in subsection (1)(a) or subsection (1)(b), and of enabling the consent to authorise the discharge of contaminants into the air.

(5) The date of expiry of any discharge permit deemed to be granted by subsection (1) shall be 1 year after the date on which the permission would have expired if this Act had not been passed.

Section 385(2): replaced, on 7 July 1993, by section 178(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 385(3)(a)(i): amended, on 7 July 1993, by section 178(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 385(3)(b)(i): amended, on 7 July 1993, by section 178(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 386 Existing rights and authorities under Water and Soil Conservation Act 1967

(1) Except as provided in subsections (2) to (7),—

(a) every right—

(i) granted under section 21(3) of the Water and Soil Conservation Act 1967; or

(ii) deemed to be so granted by virtue of section 58(1) of the Water and Soil Conservation Amendment Act 1988; or

(iii) referred to in subparagraph (vii) of section 365(d)—

(in this section called an **existing right**); and

(b) every authority under section 21(2) or section 21(2A) of the Water and Soil Conservation Act 1967 (in this section called an **existing authority**); and

(c) every right—

(i) referred to in section 21(1) of that Act that was granted during the period commencing on 10 September 1966 and ending with 31 December 1968; or

(ii) expressly authorised by any other Act (other than the Tasman Pulp and Paper Company Enabling Act 1954) or Provincial Ordinance before the passing of that Act in respect of any specified water; or

(iii) referred to in subparagraphs (vi) or (viii) of section 365(d); or

(iv) deemed to be granted under section 21(3) of the Water and Soil Conservation Act 1967 by virtue of section 25(2)(d) of the Water and Soil Conservation Amendment Act (No 2) 1971—

(in this section called an **existing authority**)—

that is in force immediately before the date of commencement of this Act shall be deemed to be—

(d) a coastal permit, where it relates to a coastal marine area; or

(e) where it does not relate to a coastal marine area—

(i) a water permit, if it authorises something that would otherwise contravene section 14; or

(ii) a discharge permit, if it authorises something that would otherwise contravene section 15—

granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act) by the appropriate consent authority; and the provisions of this Act shall apply accordingly.

(2) Where a permit resulting from an existing right would, but for this subsection, not expire by the 35th anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the 35th anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

(3) Where a permit resulting from an existing authority would, but for this subsection, not expire by the tenth anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the tenth anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

(4) No enforcement order may be made under section 319 against the holder of any permit resulting from an existing authority in respect of any activity to which the permit relates except upon an application under section 316 made by the relevant regional council.

(5) No permit resulting from an existing authority shall be transferable from site to site.

(6) The holder of a permit resulting from an existing authority may, in order to replace that permit, apply at any time under Part 6 for another permit in respect of the activity to which the first-mentioned permit relates.

(7) Notwithstanding section 14(3)(a), a water permit for the taking or use of geothermal water deemed to be granted by subsection (1)—

(a) does not authorise any person to take or use such geothermal water except where such taking or use is also authorised by—

(i) a water permit or coastal permit deemed to be granted by virtue of section 387; or

(ii) a water permit or coastal permit granted in respect of an application for a licence under the Geothermal Energy Act 1953, by virtue of the operation of section 389; and

(b) notwithstanding paragraph (a), shall be deemed to include a condition enabling the holder of the permit, at any time within 2 years after the date of commencement of this Act, to apply to the consent authority under section 127(1) to change the permit for the purpose of including, as conditions of that permit, matters that could have been included in a licence granted under the Geothermal Energy Act 1953, and of enabling that permit to authorise the taking or use of geothermal water.

(8) Nothing in this section applies in respect of any mining privilege within the meaning of section 413(1).

Section 386(1)(a)(iii): amended, on 7 July 1993, by section 179(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 386(1)(c)(iii): amended, on 7 July 1993, by section 179(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 386(1)(c)(iv): inserted, on 7 July 1993, by section 179(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 386(2): replaced, on 7 July 1993, by section 179(4) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 386(3): replaced, on 7 July 1993, by section 179(4) of the Resource Management Amendment Act 1993 (1993 No 65).

### 387 Existing geothermal licences and authorisations deemed to be water permits

(1) Every licence under the Geothermal Energy Act 1953 and every power or authorisation under section 11 of that Act that is in force immediately before the date of commencement of this Act shall, to the extent that it licenses or authorises the taking, tapping, use, or application of geothermal energy (within the meaning of the Geothermal Energy Act 1953)—

(a) within the coastal marine area, be deemed to be a coastal permit; and

(b) in every other case, be deemed to be a water permit—

granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked) by the appropriate consent authority, and the provisions of this Act shall apply accordingly.

(2) Notwithstanding section 14(3)(a), a permit deemed to be granted under subsection (1) does not authorise any person to take or use geothermal water except

where such taking or use is also authorised by a water permit or a coastal permit granted under Part 6 or deemed to be so granted by virtue of section 386.

(3) Subject to subsection (2), where, for the purpose of taking or using geothermal water, a person holds—

(a) a permit referred to in subsection (1) or a water permit or a coastal permit granted in respect of an application for a licence under the Geothermal Energy Act 1953, by virtue of the operation of section 389; and

(b) a water permit or coastal permit granted under Part 6 or deemed to be so granted by virtue of section 386—

then the total amount of geothermal water which the holder of those permits shall be entitled to take or use pursuant to those permits shall be the lesser of the amounts specified in the respective permits.

(4) From the date of commencement of this Act, the persons specified below shall be responsible for exercising any functions, powers, and duties in respect of the following conditions of, or provisions of the Geothermal Energy Act 1953 that relate to, any water permit or coastal permit under this section, any water permit or coastal permit granted under section 389 in respect of an application for a licence under the Geothermal Energy Act 1953, or any water permit or coastal permit whose conditions have been changed under section 386(7)(b):

(a) conditions or provisions concerning occupational safety or health, the Minister of Energy:

(aa) refund or remission of rentals, the Minister:

(b) all other conditions and provisions, the consent authority concerned.

(5) Clause 15(2) to (6) of Schedule 1 of the Crown Minerals Act 1991, with all necessary modifications, shall apply in respect of every water permit or coastal permit to which this section applies, as if references in those subsections to an existing privilege were references to such a water permit or such a coastal permit, as the case may require.

(6) Where a permit resulting from a licence under the Geothermal Energy Act 1953 would, but for this subsection, not expire by the 35th anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the 35th anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

(7) Where a permit resulting from a power or authorisation under section 11 of the Geothermal Energy Act 1953 would, but for this subsection, not expire by the tenth anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the tenth anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

Section 387(1): amended, on 7 July 1993, by section 180(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 387(4)(aa): inserted, on 2 September 1996, by section 21 of the Resource Management Amendment Act 1996 (1996 No 160).

Section 387(5): replaced, on 1 October 1991, by section 2(2) of the Crown Minerals Amendment Act 1991 (1991 No 102).

Section 387(5): amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 387(6): inserted, on 7 July 1993, by section 180(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 387(7): inserted, on 7 July 1993, by section 180(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 388 Requirement to supply information

(1) Every person who exercises a resource consent that is deemed to be granted under any of sections 384(1)(b), 385, 386, 387, and 413 shall, as and when required by the consent authority to do so, supply the consent authority with information as to the nature and extent of the activities carried out under the consent and the effects of those activities upon the environment within the region.

(2) The purpose for which information may be required under subsection (1) is to enable the consent authority to properly manage the resource affected by any such activity.

### 389 Existing applications

(1) Where—

(a) an application had been made, before the date of commencement of this Act, for—

(i) a permission (other than a permission referred to in subsection (2)); or

(ii) a licence or permit under any of sections 146A, 156, 162, and section 165 of the Harbours Act 1950 in relation to the coastal marine area; and

(b) the application had not been granted, declined, or withdrawn before the date of commencement of this Act; and

(c) if the permission, licence, or permit had been granted before the date of commencement of this Act it would have become a resource consent under any of sections 383 to 387—

the application shall be deemed, for the purposes of section 88, to be an application for a resource consent of the appropriate kind; and, subject to sections 390, 390A, 390B, and 390C, this Act shall apply accordingly.

(2) This section shall not apply to any of the following:

(a) an application for approval of a scheme plan of subdivision (to which section 404 applies); or

(b) an application for an Order in Council to reclaim land or to carry out harbour works (to which section 393 applies); or

(c) an application for an approval or a licence within the meaning of the Clean Air Act 1972 (to which sections 391 and 391A apply); or

(d) an application for a lease or licence under the Marine Farming Act 1971 (to which section 397 applies).

Section 389: replaced, on 7 July 1993, by section 181 of the Resource Management Amendment Act 1993 (1993 No 65).

### 390 Application being heard

(1) In any case where, in accordance with the enactment under which the application for a permission under section 389(1) was made, the consideration of the application involved a hearing, and that hearing had commenced before the date of commencement of this Act, the application shall be determined as if this Act had not been enacted.

(2) Where the effect of any determination under this section is that the permission, licence, or permit is granted, the grant shall constitute the grant of a resource consent of the appropriate kind under this Act; and this Act shall apply accordingly.

Section 390: replaced, on 7 July 1993, by section 181 of the Resource Management Amendment Act 1993 (1993 No 65).

### 390A Appeals

(1) All appeals to the Environment Court arising out of applications for permissions covered by section 389(1)(a)(i), that were lodged with the Environment Court before the date of commencement of this Act and were not completed at that date shall be continued and completed in all respects (whether or not any hearing has commenced) as if the enactments repealed by this Act continued in force.

(2) Where any applicant or other person had a right of appeal to the Environment Court—

(a) in any case where a determination of an application for a permission of a kind described in section 389(1)(a)(i) had been made before the date of commencement of this Act, and the right of appeal had not expired on the date of commencement of the Act; or

(b) in respect of a determination made under section 390 on an application for a permission of a kind described in section 389(1)(a)(i)—

the applicant or other person may, notwithstanding the repeal or amendment of any enactment by this Act, continue to exercise that right; and any such appeal shall be continued and completed as if the relevant enactment so repealed or

amended continued in force or continued in force without amendment, as the case may be.

(3) Any person who, if this Act had not been enacted, had—

(a) a right of appeal on any question of law; or

(b) a right to make an application for review—

in respect of any determination of any application or of the determination of any appeal, to which this section or section 389(1)(a)(i) applies, may continue to exercise that right.

(4) Where the effect of any determination made under this section is that the permission is granted, the grant shall constitute the grant of a resource consent of the appropriate kind under this Act; and this Act shall apply accordingly.

(5) For the purposes of this section, the term **right of appeal** includes the hearing and determination of the appeal (including an appeal where the notice of appeal was lodged and the date for the lodging of the appeal expired before 1 October 1991).

Section 390A: inserted, on 7 July 1993, by section 181 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 390A(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 390A(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 390B Date on which application deemed to be made

(1) Except as provided in section 390, every application to which section 389 applies (unless dealt with under section 390A) shall be deemed to be made—

(a) on the date of commencement of this Act, where the person who is empowered to decide the application by the enactment under which the application was made remains the relevant consent authority; or

(b) without limiting section 399, on the date it is received by the relevant consent authority if subsection (2) applies.

(2) Where, in respect of any application to which section 389(1) applies, the person who was empowered to decide the application by the enactment under which the application was made is no longer the relevant consent authority, that person shall, as soon as practicable, endorse on the application the date on which it was made and refer the application, and all information relevant to it, to the relevant consent authority.

Section 390B: inserted, on 7 July 1993, by section 181 of the Resource Management Amendment Act 1993 (1993 No 65).

### 390C Dealing with applications for permissions

(1) Where an application to which section 389(1) applies has, before the commencement of this Act, been publicly notified or advertised in accordance with the enactment under which the application was made—

(a) the application shall not be notified under sections 95 to 95G; and

(b) any objection or submission in respect of the application that has been or is made in accordance with that public notification or advertisement, and which has not been withdrawn, shall be deemed to be a submission made under section 96—

but otherwise the provisions of this Act shall apply in respect of the application.

(2) Where the enactment under which the application to which section 389(1) applies did not require the application to be publicly notified or advertised, the application shall not be notified under sections 95 to 95G; but otherwise the provisions of this Act shall apply in respect of the application.

(3) The granting or declining of an application to which section 389(1) applies—

(a) constitutes the granting or declining of a resource consent of the appropriate kind under this Act, notwithstanding that all the requirements of this Act in relation to the application for, and determination of, resource consents may not have been complied with; and

(b) may be appealed against in accordance with this Act.

Section 390C: inserted, on 7 July 1993, by section 181 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 390C(1)(a): amended, on 4 September 2013, by section 63 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 390C(1)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 390C(2): amended, on 4 September 2013, by section 63 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 390C(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 390D Timing for renewals

(1) Where the holder of a permission, licence, permit, or order referred to in either section 389(1) or section 389(2) (in this section called an **approval**), before the expiry of the approval and before 1 January 1992, made an application for a new approval or resource consent for the same activity, that application shall be deemed to have been made at least 6 months before the expiry of the original approval; and the provisions of section 124 shall apply accordingly.

(2) Notwithstanding any other provision of this Act, for the purposes of subsection (1) the date of application shall be the date on which the application was lodged with the then appropriate consent authority, and not the date on which it was received by the relevant consent authority under this Act.

Section 390D: inserted, on 7 July 1993, by section 181 of the Resource Management Amendment Act 1993 (1993 No 65).

### 391 Applications for licences and approvals under Clean Air Act 1972

(1) Where, before the date of commencement of this Act, an application has been made for—

(a) a licence within the meaning of the Clean Air Act 1972; or

(b) an approval under section 31 of that Act in respect of any scheduled premises within the meaning of that Act—

and the application has not been granted, declined, or withdrawn before that date, the licensing authority shall, as soon as reasonably practicable, decide whether the application is to be dealt with after that date—

(c) by the licensing authority, in accordance with the Clean Air Act 1972 as if this Act had not been enacted; or

(d) by the licensing authority, in accordance with the Clean Air Act 1972 as if this Act had not been enacted, but having regard to the matters set out in section 104 (which deals with matters to be considered on an application for a resource consent); or

(e) by the appropriate consent authority, in accordance with this Act, as if the application had been made under this Act—

and any such decision shall be final and not subject to appeal to, or review by, any court or the Environment Court.

(2) When making a decision for the purposes of subsection (1), the licensing authority shall have regard to—

(a) the progress made in consideration of the application; and

(b) any representations (whether written or not) made to the authority by the applicant and any other person as to the appropriate manner of dealing with the application—

and shall also ensure that written notice of the decision and anything that the applicant is required to do as a result of the decision is served, as soon as reasonably practicable after the decision is made, on every person (including the applicant) whom the licensing authority considers should receive notice.

(3) Where the licensing authority decides that the application should be dealt with in accordance with subsection (1)(e), the licensing authority shall as soon as reasonably practicable refer the application, and all information relevant to it, to the relevant consent authority and, for the purposes of section 88, the application shall be deemed to be an application for a discharge permit made by the applicant on the date that it is received by the relevant consent authority.

(4) The granting of an application to which subsection (1) applies in accordance with this section—

(a) constitutes the granting of a discharge permit under this Act, notwithstanding that all requirements of this Act in relation to applications for, and granting of, discharge permits may not have been complied with; and

(b) may be appealed against in accordance with this Act accordingly.

(5) A person who, if this Act had not been enacted, had—

(a) a right of appeal; or

(b) a right to make any application for review—

in respect of any application to which subsection (1) applies or any decision thereon may continue to exercise that right.

(6) In this section, **licensing authority** has the same meaning as in section 2(1) of the Clean Air Act 1972 before its repeal by this Act.

Section 391(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 391A Resource consents following approval under Clean Air Act 1972

(1) Where—

(a) before the date of commencement of this Act, any person has obtained an approval under section 31 of the Clean Air Act 1972 in respect of any scheduled premises within the meaning of that Act and that person had not applied for a licence to operate under section 25 of the Clean Air Act 1972; and

(b) that person makes an application for a resource consent to discharge any contaminant into air from those premises—

then the consent authority may grant a discharge permit to the approval holder under the provisions of subsection (2) if the consent authority is satisfied that—

(c) the plant and equipment has been installed within the scheduled premises in accordance with the approval; and

(d) the conditions proposed in the approval as to the construction of the plant and equipment have all been met by the applicant; and

(e) the approval is subject to conditions of operation; and

(f) every local authority affected by an application to which subsection (2) applies has received at least 10 working days' opportunity to comment on or seek variation to any of those conditions, and that such local authorities have not sought any variation to the conditions of approval within that time; and

(g) the conditions of operation contained in the approval are appropriate and adequate.

(2) Where the provisions of subsection (1) are satisfied, the consent authority shall determine the application in accordance with the following provisions:

(a) the application shall not be notified under sections 95 to 95G; and

(b) the consent authority shall not hold a hearing in terms of section 100 to determine the application; and

(c) any discharge permit granted under this section shall expire 1 year after the date on which it commences; and

(d) in all other respects the application shall be determined by the consent authority in accordance with the provisions of this Act.

Section 391A: inserted, on 7 July 1993, by section 182 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 391A(2)(a): amended, on 4 September 2013, by section 64 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 391A(2)(a): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 392 Provisions of Clean Air Act 1972 may be considered on applications for resource consents for discharging contaminants into the air

*[Expired]*

Section 392: expired, on 1 October 1994, by section 392(2).

### 393 Applications for Orders in Council to reclaim land and approval for harbour works

(1) Where, before the date of commencement of this Act, an application has been made under the Harbours Act 1950—

(a) for an Order in Council under section 175(2) or section 175(3) of that Act to authorise reclamation of land, and a recommendation to the Governor-General in respect of the application has not been made under section 175 of that Act by the Minister of Transport or the Minister of Conservation or both; or

(b) for approval under section 178(1)(b) or (2) of that Act to carry out harbour works, and approval of the application has not been given by the Minister of Transport or the Minister of Conservation or both—

then the application shall be deemed to be an application for a coastal permit for such reclamation or harbour works and—

(c) the Minister or Ministers shall as soon as practicable—

(i) endorse on every such application the date on which it was made; and

(ii) refer every such application and all information relevant to it to the relevant regional council; and

(d) for the purposes of this Act (but without limiting section 399), the application shall be deemed to have been made to the appropriate regional council on the date that it is received by the regional council; and

(e) in the case of an application for approval to carry out harbour works in respect of which—

(i) an Order in Council under section 175(2) or section 175(3) of the Harbours Act 1950 has been made; or

(ii) before the date of commencement of this Act, under section 33 or section 102A or section 110 of the Town and Country Planning Act 1977, a consent relating to the harbour works the subject of the application has been granted or has been sought but has not been determined at that date; or

(iii) the harbour works the subject of the application are, at the date of commencement of this Act, a permitted use under the provisions of any operative maritime planning scheme under the Town and Country Planning Act 1977 or under any proposed variation, change, or review of any operative maritime planning scheme under that Act which, at the date of commencement of this Act, has been publicly notified—

the application shall not be notified under sections 95 to 95G; and

(f) notwithstanding paragraph (e), where the harbour works the subject of any such application are a restricted coastal activity (including a restricted coastal activity the subject of a direction in accordance with section 372), the provisions of sections 117 to 119A shall apply except that the application shall not be notified and the Minister of Conservation shall be the only person who may make a submission on the application.

(2) The granting of an application to which subsection (1) applies in accordance with this section—

(a) constitutes the granting of a resource consent of the appropriate kind under this Act notwithstanding that all requirements of this Act in relation to applications for, and the granting of, resource consents may not have been complied with; and

(b) may be appealed against in accordance with this Act accordingly.

(3) A person who, if this Act had not been enacted, had—

(a) a right of appeal; or

(b) a right to make any application for review—

in respect of any application to which subsection (1) applies or any decision thereon may continue to exercise that right.

(4) Where, before the date of commencement of this Act,—

(a) the Governor-General had authorised the reclamation of land by Order in Council under section 175(2) or (3) of the Harbours Act 1950; and

(b) the Chief Surveyor had approved the survey plan as referred to in section 175B(4) of the Harbours Act 1950 (where such approval was a condition of the authority to reclaim)—

then, notwithstanding anything in this Act, the Governor-General may vest the land in the grantee of the authority to reclaim (or any successor), by Order in Council under the Harbours Act 1950 as if this Act had not been enacted.

Section 393(1)(b): amended, on 7 July 1993, by section 184(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 393(1)(e): replaced, on 7 July 1993, by section 184(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 393(1)(e): amended, on 4 September 2013, by section 65 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 393(1)(e): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 393(1)(f): inserted, on 7 July 1993, by section 184(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 393(4): inserted, on 7 July 1993, by section 184(3) of the Resource Management Amendment Act 1993 (1993 No 65).

## 394 Transitional provisions relating to setting aside of esplanade reserves on reclamation

*[Repealed]*

Section 394: repealed, on 7 July 1993, by section 185 of the Resource Management Amendment Act 1993 (1993 No 65).

## 395 Applications for works, etc, in coastal marine area

*[Repealed]*

Section 395: repealed, on 1 October 2009, by section 148 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

## 396 Applications for marine farming in coastal marine area

*[Repealed]*

Section 396: repealed, on 1 January 2005, by section 23 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

## 396A Notification of lapsing, cancellation, or surrender of coastal permit for marine farming

*[Repealed]*

Section 396A: repealed, on 1 January 2005, by section 24 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

## 396B Notification of rule change affecting marine farming

*[Repealed]*

Section 396B: repealed, on 1 January 2005, by section 25 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 397 Existing applications for marine farming leases

*[Repealed]*

Section 397: repealed, on 1 January 2005, by section 26 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 398 Regional councils not to accept applications for coastal permits in areas notified by Minister of Fisheries

*[Repealed]*

Section 398: repealed, on 1 January 2005, by section 27 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 399 Applications received on same day

Where—

(a) in accordance with section 390B(2) or section 393(1)(c)(ii) or section 397(2)(b), a consent authority receives, on the same date, 2 or more applications; and

(b) those applications do not relate to the same proposal and were not made by the same person; and

(c) the granting of one of those applications would mean that it would be likely that any other of those applications would not be granted or, if granted, would be granted on conditions that would not otherwise be imposed and which would be less favourable to the interests of the relevant applicant—

the consent authority shall process and determine those applications under this Act in a sequence commencing with the application which, in accordance with any of those provisions, is endorsed with the earliest date, and ending with the application so endorsed with the latest date, and this Act shall apply accordingly.

Section 399(a): amended, on 7 July 1993, by section 190 of the Resource Management Amendment Act 1993 (1993 No 65).

### 400 Applications under Marine Farming Act 1971 for prohibited anchorages, etc

(1) Where, immediately before the date of commencement of this Act, an application has been made under section 28(1) of the Marine Farming Act 1971 for permission to declare any specified part of a licensed area to be a prohibited anchorage or a prohibited navigation area and that application had not been determined—

(a) the application shall be determined under the Marine Farming Act 1971 as if this Act had not been enacted; and

(b) if the controlling authority grants the application, then notwithstanding the repeal of section 28 of that Act, but subject to subsection (3), such prohibition shall remain in force and the provisions of subsections (4) to

(8) of the said section 28 shall continue to apply to that prohibition as if this Act had not been enacted.

(2) Where, immediately before the date of commencement of this Act, any part of a lease or licence under the Marine Farming Act 1971 has been declared to be a prohibited anchorage or a prohibited navigation area under section 28(4) of that Act and such prohibition remains in force, then notwithstanding the repeal of section 28 of that Act, but subject to subsection (3), such prohibition shall remain in force and the provisions of subsections (4) to (8) of the said section 28 shall continue to apply to that prohibition as if this Act had not been enacted.

(3) After the date of commencement of this Act, those functions that were exercisable by a controlling authority under section 28(5) of the Marine Farming Act 1971 before the repeal of that subsection by this Act may continue to be exercised by any regional council in accordance with that subsection as if that subsection remained in force, but the regional council shall not make any declaration under that subsection without the prior consent of the Minister of Fisheries given with the concurrence of the Minister of Transport.

### 401 Conditions of deemed resource consents

Where the conditions of any permission that is deemed to be a resource consent by virtue of any of sections 383 to 387, or of any mining privilege that is a deemed permit under section 413, provide that a Minister of the Crown, a local authority, or any other person may exercise any powers or discretions in relation to the permission (other than as the holder thereof), from the date of commencement of this Act those powers or discretions shall be exercised by the appropriate consent authority and not by the Minister, local authority, or person.

### 401A Transitional coastal occupation charges

(1) Where a person is occupying the coastal marine area, either as a holder of a resource consent or as a result of permitted activity in a plan, there is implied a condition that that person must, from the commencement of this section until a regional coastal plan or plan change is operative which contains either a charging regime or a statement to the effect that no regime may be introduced or 30 June 2007 (whichever is earlier), pay to the relevant regional council, if requested by that regional council, any sum required to be paid for the occupation of the coastal marine area by any regulations made under section 360(1)(c).

(2) Any money received by the regional council under subsection (1) may be used only for the purpose of promoting the sustainable management of the coastal marine area.

(3) Where a regional council prepares or changes a regional coastal plan or proposed regional coastal plan in the period from the commencement of this section until the expiry date, that plan is not required to comply with section 64A.

(4) Where no provision for coastal occupation charges has been made in a regional coastal plan or proposed regional coastal plan by the expiry date, the regional council must, in the first proposed regional coastal plan or change to a regional coastal plan notified on or after the expiry date, include a statement or regime on coastal occupation charges in accordance with section 64A.

(5) In this section, **expiry date** means the date that is 3 years after the commencement of section 59 of the Resource Management Amendment Act (No 2) 2011.

Section 401A: inserted, on 17 December 1997, by section 62 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 401A(1): amended, on 1 January 2005, by section 28(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 401A(3): amended, on 1 October 2011, by section 59(1) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 401A(4): amended, on 1 October 2011, by section 59(2)(a) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 401A(4): amended, on 1 October 2011, by section 59(2)(b) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 401A(5): inserted, on 1 October 2011, by section 59(3) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

### 401B Obligation to pay coastal occupation charge deemed condition of consent

In every coastal permit that—

(a) authorises the holder to occupy any part of the common marine and coastal area; and

(b) was granted in the period commencing on 1 October 1991 and ending on the date a regional coastal plan containing provisions in accordance with section 64A is operative in relation to the part of the coastal marine area that the permit relates to,—

there is implied a condition that the holder must at all times throughout the period of the permit pay to the relevant regional council any sum of money required to be paid (if any) by that regional coastal plan.

Section 401B: inserted, on 17 December 1997, by section 62 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 401B(a): replaced, on 19 April 2017, by section 117 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Subdivision and development*

### 402 Existing subdivision approvals

(1) Nothing in section 11 or Part 10 shall apply to any subdivision in respect of which there is in force immediately before the commencement of this Act—

(a) an approval under section 279 of the Local Government Act 1974 of a scheme plan; or

(b) an approval under section 305 of that Act of a survey plan.

(2) Parts 20 and 21 of the Local Government Act 1974 shall continue to apply to any subdivision referred to in subsection (1) as if this Act had not been enacted.

(3) For the purposes of subsection (1), an approval under section 279 of the Local Government Act 1974 shall be deemed to be in force notwithstanding—

(a) that there exists a right of objection under section 299 of that Act or a right of appeal under section 300 or section 301 of that Act; or

(b) that any such right of objection or that any such right of appeal has been exercised by any person.

### 403 Existing objections and appeals in relation to subdivisions

(1) Nothing in section 11 or Part 10 shall apply to any subdivision in respect of which, before the date of commencement of this Act,—

(a) the territorial authority has refused to approve a scheme plan of subdivision under sections 274 and 279(1)(f) of the Local Government Act 1974; and

(b) a right of objection under section 299 of that Act, or a right of appeal under section 300 of that Act, has been exercised by any person in respect of that refusal.

(2) Parts 20 and 21 of the Local Government Act 1974 shall continue to apply to any subdivision referred to in subsection (1) as if this Act had not been enacted.

### 404 Existing applications for approval

Where an application for approval of a scheme plan of subdivision has been made under section 275 of the Local Government Act 1974 before the commencement of this Act, and the territorial authority has not exercised its powers under section 279 of that Act in relation to the scheme plan, the application shall be deemed—

(a) to be an application for a subdivision consent under this Act and shall be dealt with accordingly; and

(b) to have been received by the territorial authority on the date of commencement of this Act.

### 405 Transitional provisions for subdivisions

(1) For the purpose of subsections (2) and (3), the term **district plan** means a district plan or a proposed plan constituted under section 373 that has been publicly notified under the Town and Country Planning Act 1977 before the commencement of this Part.

(2) Notwithstanding anything in section 374(3) or (4), in respect of any district plan—

(a) every subdivision of land that is contrary to the provisions of the district plan shall be deemed to be a non-complying activity in respect of that plan; and

(b) every subdivision of land which is subject to a discretion contained in the provisions of that district plan relating to the approval or refusal of a subdivision of land is deemed to be a discretionary activity in respect of that plan; and

(c) every other subdivision of land shall be deemed to be a controlled activity in respect of that plan.

(3) Notwithstanding the provisions of subsection (2) or any provisions in a district plan, a subdivision of land to be effected by a grant of a cross lease or a company lease, or by the deposit of a unit plan, is deemed—

(a) to be a controlled activity in respect of a district plan—

(i) if the building or part of a building in respect of which the cross lease or company lease is to be granted; or

(ii) if the units on the unit plan to be deposited—

is or are intended to be used solely or principally for residential or commercial or industrial purposes, or any 2 or more such purposes; and

(b) to be a non-complying activity in respect of a district plan in every other case.

(4) The application of this section may be excluded or modified at any time in accordance with Schedule 1.

(5) This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.

Section 405: replaced, on 7 July 1993, by section 191 of the Resource Management Amendment Act 1993 (1993 No 65).

### 405A Transitional provisions for esplanade reserves where land subdivided or road stopped

(1) Subject to subsections (3) and (4) and with the consent of the Minister of Conservation, on any road stopped under the Local Government Act 1974, and on every application for subdivision consent in respect of any allotment of less than 4 hectares, a territorial authority may impose a condition, that—

(a) the esplanade reserve required to be set aside under section 230 of this Act or section 345(3) of the Local Government Act 1974 along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river, may be reduced or increased from 20 metres to any width; or

(b) section 230 of this Act and section 345(3) of the Local Government Act 1974 shall not apply in respect of land along the mark of mean high

water springs of the sea, or along the margin of any lake, or along the bank of any river, to which the application relates; or

(c) that, instead of an esplanade reserve, an esplanade strip of any width specified may be created under section 232.

(2) On every application for a subdivision consent, a territorial authority shall consider the purposes of esplanade reserves and esplanade strips in section 229 and may impose, where it considers it appropriate, in respect of an allotment of 4 hectares or more, in terms of section 230, a condition that an esplanade reserve or esplanade strip of any specified width be set aside or created on those allotments.

(3) Before including a condition described in subsection (1)(a) for a reduction in width in a subdivision consent, the territorial authority shall be satisfied that the value of the esplanade reserve, in terms of the purposes specified in section 229, will not be significantly diminished.

(4) Before including a condition described in subsection (1)(b) in a subdivision consent, the territorial authority shall be satisfied that—

(a) notwithstanding section 229, it would not be appropriate in the circumstances including (but not limited to) reasons of security, public safety, or minor boundary adjustments, for an esplanade reserve or esplanade strip to be required; or

(b) the land has little or no value in terms of the purposes specified in section 229; or

(c) any value the land has in terms of the purposes specified in section 229 can be adequately provided by other means.

(5) The provisions of Part 10 shall apply to any esplanade reserve or esplanade strip required under this section.

(6) Any declaration or decision under section 289(7) of the Local Government Act 1974, or under any corresponding earlier enactment, to exclude the bank of any river from the requirement of an esplanade reserve shall be deemed to be a district rule for the purposes of section 77, where that direction had effect on 30 September 1991.

(7) Where any action taken pursuant to a declaration or decision which is deemed to be a district rule under subsection (6) was taken before the commencement of this subsection, that action is hereby validated and declared to have been lawfully carried out.

(8) The application of this section may be excluded or modified at any time in accordance with Schedule 1.

(9) This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.

Section 405A: inserted, on 7 July 1993, by section 191 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 405A(1): amended, on 17 December 1997, by section 63 of the Resource Management Amendment Act 1997 (1997 No 104).

### 406 Grounds of refusal of subdivision consent

(1) Notwithstanding anything to the contrary in Parts 6 or 10, a territorial authority—

(a) may refuse to grant a subdivision consent if it considers that either—

(i) the land in respect of which the subdivision is proposed is not suitable; or

(ii) the proposed subdivision would not be in the public interest:

(b) may refuse to grant a subdivision consent if in the case of any allotment in respect of which a subdivision consent is sought, adequate provision has not been made or is not practicable—

(i) for stormwater drainage; or

(ii) for the disposal of sewage; or

(iii) except in the case of any allotment to be used solely or principally for rural purposes, for the supply of water or electricity.

(2) This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.

Section 406(1)(a): amended, on 1 August 2003, by section 91 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 406(2): inserted, on 7 July 1993, by section 192 of the Resource Management Amendment Act 1993 (1993 No 65).

### 407 Subdivision consent conditions

(1) Where an application for a subdivision consent is made in respect of land for which there is no district plan, or where the district plan does not include relevant provisions of the kind contemplated by section 108(2)(a) or 220(1)(a), the territorial authority may impose, as a condition of the subdivision consent, any condition that could have been imposed under sections 283, 285, 286, 291, 321A, or 322, as the case may be, of the Local Government Act 1974 if those sections had not been repealed by this Act.

(2) For the purposes of subsection (1), every reference in sections 283, 285, 286, 291, 321A, and 322 of the Local Government Act 1974—

(a) to an application for the approval of a scheme plan, shall be deemed to be a reference to an application for a resource consent; and

(b) to an allotment on a scheme plan, shall be deemed to be a reference to the allotments in respect of which a subdivision consent is sought.

(3) Notwithstanding the limitation on the imposition of conditions in section 105(1), where an application is made for a subdivision consent and the subdivision is deemed to be a controlled activity under section 405, conditions may be imposed under sections 108 and 220.

(4) This section applies to applications for subdivision consent in respect of every kind of subdivision of land within the meaning of section 218(1), including (but not by way of limitation) any subdivision to be effected by the grant of a company lease or cross lease or by deposit of a unit title.

(5) This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.

Section 407(1): amended, on 17 December 1997, by section 64 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 407(3): inserted, on 7 July 1993, by section 193 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 407(4): inserted, on 7 July 1993, by section 193 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 407(5): inserted, on 7 July 1993, by section 193 of the Resource Management Amendment Act 1993 (1993 No 65).

### 408 Existing approvals for unit plans, cross lease plans, and company lease plans

(1) Nothing in section 11 or Part 10 shall apply—

(a) to the deposit of a unit plan, or to the issue of a record of title for any unit on such a plan, where, before the date of commencement of this Act, a certificate has been given in respect of the plan under section 32(2)(a) of the Unit Titles Act 2010:

(b) to the deposit of a plan to give effect to the registration of a cross lease, or to the issue of a record of title for a cross lease in respect of a building or part of a building shown on a plan, where, before the date of commencement of this Act, a certificate has been given in respect of the plan under section 314 of the Local Government Act 1974:

(c) to the deposit of a plan to give effect to the grant of a company lease, or to the registration or issue of a record of title for a company lease in respect of a building or part of a building shown on a plan, where the plan is approved by the Chief Surveyor before the date of commencement of this Act.

(2) Nothing in section 224(f) shall apply to any subdivision of land for which a subdivision consent was granted on or after 1 October 1991 and on or before 30 June 1992.

Section 408(1)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 408(1)(a): amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Section 408(1)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 408(1)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 408(2): inserted, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

### 409 Financial contributions for developments

(1) Subject to section 410, where an application for a resource consent for a development is made in respect of land for which there is no district plan, or where the district plan does not include provisions of the kind contemplated by section 108(2)(a), the territorial authority may impose, as a condition of the consent,—

(a) any condition described in any of sections 283, 289, 291, 292, 321A, or 322 of the Local Government Act 1974 that, by virtue of section 281 or section 294B of that Act, could have been imposed in respect of a development if those sections had not been repealed by this Act:

(b) any requirement that could have been imposed in respect of a development under section 294 of the Local Government Act 1974 (if that section had not been repealed by this Act) to pay a reserves contribution or to set aside, as public reserve, any area of land.

(2) For the purposes of subsection (1)—

(a) every reference in sections 283, 289, 291, 292, 321A, and 322 of the Local Government Act 1974—

(i) to an application for the approval of a scheme plan, shall be deemed to be a reference to an application for a resource consent; and

(ii) to the approval of a scheme plan, shall be deemed to be a reference to a grant of a resource consent; and

(b) every reference in section 294 of the Local Government Act 1974 to a requirement under section 293 of that Act to notify the Council of a proposed development, shall be deemed to be a reference to an application for a resource consent.

(2A) For the purposes of subsection (1)(b), section 294 of the Local Government Act 1974 shall be read as if that section had not been repealed by this Act and as if section 294(1) of that Act did not contain the words "and the assessed value of the development is not in excess of $50 million".

(3) For the purposes of this section and sections 410 and 411, **development** has the same meaning as in section 271A of the Local Government Act 1974 before its repeal by this Act.

(4) Where a district plan or proposed district plan has been deemed to be constituted by section 373 and a provision, expressly or by implication and whether or not subject to conditions, of that plan or proposed plan authorised a develop-

ment without further consent or approval from the former consent authority being required, then, notwithstanding section 374(3)(a), such a development is deemed to be a controlled activity only for the purposes of subsections (1) and (2), and any application for a land use consent to which this subsection applies shall not be notified under sections 95 to 95G.

(5) This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.

Section 409(1): amended, on 17 December 1997, by section 65 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 409(2A): inserted, on 7 July 1993, by section 194(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 409(4): inserted, on 7 July 1993, by section 194(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 409(4): amended, on 4 September 2013, by section 66 of the Resource Management Amendment Act 2013 (2013 No 63).

Section 409(4): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 409(5): inserted, on 7 July 1993, by section 194(2) of the Resource Management Amendment Act 1993 (1993 No 65).

### 410 Existing developments

Parts 20 and 21 of the Local Government Act 1974 shall continue to apply to any development that, before the commencement of this Act, is notified to a territorial authority under section 293(1) of the Local Government Act 1974 as if this Act had not been enacted.

### 411 Restriction on imposition of conditions as to financial contributions

(1) A consent authority shall not impose a condition of the type contemplated by section 108(2)(a) on any resource consent where a development levy within the meaning of section 270 of the Local Government Act 1974 (before its repeal by this Act) has been fixed and is paid or payable in respect of the activity in respect of which the application for the resource consent is made.

(2) Where financial contributions under Part 20 and 21 of the Local Government Act 1974 (including reserves contributions and development levies) have been fixed and have been paid, or are paid or payable in respect of an activity, the consent authority shall deal with the money in accordance with the requirement of section 223F of the Local Government Act 1974 and in reasonable accordance with the purposes for which the money was received.

Section 411(1): amended, on 17 December 1997, by section 66 of the Resource Management Amendment Act 1997 (1997 No 104).

Section 411(2): inserted, on 7 July 1993, by section 195 of the Resource Management Amendment Act 1993 (1993 No 65).

### 412 Expiry of certain sections

*[Repealed]*

Section 412: repealed, on 7 July 1993, by section 196 of the Resource Management Amendment Act 1993 (1993 No 65).

*Current mining privileges relating to water*

### 413 Current mining privileges to become deemed permits

(1) Except as provided in subsections (2) to (10), every—

(a) current mining privilege within the meaning of section 2 of the Water and Soil Conservation Amendment Act 1971; and

(b) right granted or authorised under the Water and Soil Conservation Act 1967 in substitution for a current mining privilege, on an application made by the holder of that privilege—

that is in force immediately before the date of commencement of this Act (in this section and in sections 414 to 417 called a **mining privilege**) shall be deemed to be—

(c) a water permit, if it authorises something that would otherwise contravene section 14; or

(d) a discharge permit, if it authorises something that would otherwise contravene section 15; or

(e) a permit that confers on its holder rights over land in respect of which the holder is not the owner,—

granted by the appropriate consent authority under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act) and the provisions of this Act (other than sections 128 to 133) shall apply accordingly. Every such permit is called a **deemed permit** in this section and in sections 414 to 417.

(2) Without limiting subsection (1), every deemed permit resulting from a mining privilege shall be deemed to include, as conditions of the permit, such of the provisions of sections 4 to 11, 13, 14, 16, 19(1) and (5), and 23(1)(a) and (2) of the Water and Soil Conservation Amendment Act 1971 as applied to the mining privilege immediately before the date of commencement of this Act.

(3) Every deemed permit resulting from a mining privilege under subsection (1)(c) or (d) shall be deemed to include a condition to the effect that it finally expires on the 30th anniversary of the date of commencement of this Act.

(3A) Subject to subsection (3), sections 19(4) and 23(1)(b) of the Water and Soil Conservation Amendment Act 1971 shall continue to apply to those deemed permits to which they applied immediately before the date of commencement of this Act.

(4) Sections 12 and 30 to 32 of the Water and Soil Conservation Amendment Act 1971 shall apply to deemed permits as if—

(a) that Act had not been repealed; and

(b) those permits were still current mining privileges under that Act; and

(c) every reference to the Board were a reference to the appropriate regional council.

(5) Notwithstanding section 122, every deemed permit shall be deemed to be a chattel interest in land and—

(a) subject to sections 136 and 137, may be sold, encumbered, transmitted, seized under writ of execution or warrant, or otherwise disposed of, as fully as a chattel interest in land; but

(b) no dealing or disposition of a kind referred to in paragraph (a) shall have effect until written notice of the dealing or disposition is received by the appropriate regional council.

(6) No enforcement order may be made under section 319 against the holder of any deemed permit in respect of any activity to which the permit relates except upon an application under section 316 made by—

(a) the relevant regional council; or

(b) a Minister of the Crown.

(7) The holder of a deemed permit may, in order to replace that permit, apply at any time under Part 6 for another permit in respect of the activity to which the deemed permit relates.

(8) Subject to subsection (9), the holder of a deemed permit may transfer the holder's interest in the permit in accordance with sections 136 and 137.

(9) The following provisions apply to a permit that is deemed by subsection (1)(c) to be a water permit:

(a) notwithstanding section 136(2)(b)(i), no transfer of the whole or any part of a deemed permit may take place except upon an application made under section 136(4); and

(b) notwithstanding anything to the contrary in section 136(5), the interest or part transferred shall be deemed to be a new permit granted under this Act, and—

(i) shall be subject to section 122 (which describes the nature of a resource consent) and shall not be a chattel interest in land and shall not confer on its holder any rights over land; and

(ii) shall be subject to sections 128 to 132 (which relate to the review of consent conditions); and

(iii) shall only be transferable in accordance with section 136; and

(c) in addition to the matters set out in section 136(4)(b), in considering an application to transfer the whole or part of a deemed permit to another site, the regional council shall have regard to the effect such a transfer would have on the relative priority and entitlement to water in the catchment and may modify the priority or other conditions of the transferred deemed permit; and

(d) for the purposes of this subsection, the term **transfer**, in relation to the whole or part of a deemed permit, means transfer in accordance with section 136 to another person on another site, or to another site, and the terms **transferred** and **transferable**, where they appear in this subsection, have a corresponding meaning.

(10) Section 18 of the Water and Soil Conservation Amendment Act 1971 shall continue to apply in respect of those deemed permits to which it applied before the date of commencement of this Act as if this Act had not been enacted.

Section 413(1)(d): amended, on 7 July 1993, by section 197(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(1)(e): inserted, on 7 July 1993, by section 197(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(2): amended, on 7 July 1993, by section 197(3)(a) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(2): amended, on 7 July 1993, by section 197(3)(b) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(3): amended, on 7 July 1993, by section 197(4) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(3A): inserted, on 7 July 1993, by section 197(5) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(9)(c): replaced, on 7 July 1993, by section 197(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 413(9)(d): inserted, on 7 July 1993, by section 197(6) of the Resource Management Amendment Act 1993 (1993 No 65).

### 414 Deemed permits to be subject to regional rules

(1) A regional council may, in accordance with section 65, include a rule in a regional plan for the purpose of securing minimum instream flow which has the effect of—

(a) restricting the amount of water which the holder of a particular deemed permit may—

(i) take, use, dam, or divert; or

(ii) discharge, or discharge a contaminant into; or

(b) prohibiting the holder of a particular deemed permit from—

(i) taking, using, damming, or diverting water; or

(ii) discharging water, or a contaminant into water,—

if—

(c) the holder of that deemed permit is—

(i) the relevant regional council; or

(ii) a person who requests the regional council to include such a rule in a plan; and

(d) that deemed permit is to be surrendered when the plan including the rule becomes operative; and

(e) the regional council is satisfied that the effect of the rule on the exercise of the rights given by every other deemed permit will not exceed the effect that exercising to the full the rights given by the particular deemed permit that is to be surrendered would otherwise have had.

(2) Subsection (1) applies—

(a) notwithstanding any other provisions of this Act; and

(b) notwithstanding the conditions of the deemed permit which will be surrendered once the plan including the rule becomes operative.

(3) If a rule of the kind referred to in subsection (1) is included in a plan, the deemed permit shall be deemed to have been surrendered on the day on which the rule becomes operative, notwithstanding any other enactment or rule of law.

(4) Notwithstanding sections 65(5) and 79(3) (which deal with the change and review of regional plans), once a regional plan including a rule of the kind referred to in subsection (1) becomes operative, then during the period described in subsection (5) the plan shall remain operative and no change may be made to the plan that has the effect of diminishing or removing any prohibition or restriction imposed by the rule.

(5) For the purposes of subsection (4), the period commences on the date on which the plan including the rule becomes operative and ends with the date on which the deemed permit would have expired if it were not surrendered, which end date shall be specified in the plan.

(6) Every regional council shall—

(a) when giving public notice, in accordance with Schedule 1, of a proposed plan including a rule of the kind referred to in subsection (1), identify the deemed permit which will be surrendered once the plan including the rule becomes operative; and

(b) serve on each holder of a deemed permit which will be affected by the rule if it becomes operative, a notice—

(i) identifying the deemed permit which will be surrendered once the plan including the rule becomes operative; and

(ii) stating the proposed rule and the effect of the rule and this section on the holder's permit; and

(iii) stating the effect of section 416 (which relates to compensation).

(7) In this section, **deemed permit** includes part of a deemed permit.

### 415 Acquisition of deemed permits

(1) Notwithstanding sections 136 and 137, a regional council may take, purchase, or acquire the whole or part of any deemed permit—

(a) as a public work under the Public Works Act 1981; or

(b) by agreement or otherwise.

(2) Notwithstanding section 413(9)(b)(i), for the purposes only of the Public Works Act 1981, this section, and section 416(4), a deemed permit that has been transferred to a new site shall be deemed to continue to be a chattel interest in land, and it shall be sufficient identification of the interest in land created or deemed to be so created by the deemed permit to describe it as the whole of the interest created by the permit, or to use the description set out in the permit.

### 416 Compensation

(1) No compensation may be claimed for any loss, damage, or injurious affection resulting from the operation of any of subsections (1) to (7) of section 413.

(2) Notwithstanding section 85 but except as provided in subsection (3), the holder of a deemed permit—

(a) taken or acquired in whole or in part under section 415; or

(b) whose estate or interest in land is injuriously affected by, or who suffers any damage resulting from, a regional rule of the kind referred to in section 414—

shall be entitled to compensation from the regional council for such taking, acquisition, injurious affection, or damage.

(3) When determining for the purposes of subsection (2)(b) the amount of any loss, damage, or injurious affection suffered by a holder of a deemed permit, the entitlement of a holder of any other deemed permit that is surrendered at the time the rule becomes operative shall be regarded as being used in full throughout the remainder of the duration of the first-mentioned permit.

(4) Except as provided in subsection (3),—

(a) claims for compensation under this section or under section 415 shall be made and determined in accordance with the Public Works Act 1981; and

(b) when determining the amount of compensation payable under the Public Works Act 1981 for any loss, damage, or injurious affection suffered, or for the taking or acquisition of the deemed permit,—

(i) for the purposes of section 62 of that Act in the case of a claim for injurious affection or damage resulting from a regional rule of the kind referred to in section 414, the specified date shall be the date the regional rule becomes operative; and

(ii) for the purposes of that Act, the deemed permit shall be deemed to be due to expire on the 30th anniversary of the specified date.

### 417 Permits over land other than that of holders to be produced in Land Transfer Office

(1) Where, immediately before the date of commencement of this Act, a mining privilege that is deemed to be a permit under section 413(1)(e) conferred on its holder rights over land in respect of which the holder is not the owner, then the holder of the deemed permit—

(a) may continue to exercise those rights, and the provisions of this section shall apply accordingly; and

(b) may, at any time, obtain from the relevant regional council, for the purpose of registration against any record of title under the Land Transfer Act 2017, a certificate specifying the rights that the holder of that permit has in respect of that land by virtue of paragraph (a).

(2) Every such certificate shall be in writing and—

(a) have affixed to it the common seal of the consent authority; and

(b) specify the rights which the holder of the permit has by virtue of subsection (1)(a) and the parcel or parcels of land affected (including the file reference); and

(c) have endorsed on the certificate or refer to a diagram or plan attached to the certificate (which need not be a survey plan), showing the course of any race and, as the case may be, the site of any dam and the boundaries of any part of the land which the permit specifies as being affected except that, where it is not practicable to show the true course or site or part of the land, it shall be indicated as nearly as possible, and, until the contrary is proved, the course or site or part of the land so indicated shall be deemed to be the true course, site, or boundaries, as the case may be.

(3) No action shall lie against the Crown under subpart 3 of Part 2 of the Land Transfer Act 2017 by reason of any certificate registered under this section not indicating the true course of any race, the site of any dam, or boundary of any part of the land.

(4) Every such certificate shall be deemed—

(a) to be an instrument capable of registration under the Land Transfer Act 2017 and, when so registered, to create in favour of the permit holder an interest in the land in respect of which it is registered, within the meaning of section 51 of that Act; and

(b) when so registered, to be binding on any registered owner of an estate in fee simple or leasehold or on any registered licensee, and on any subsequent mortgagee of any land, or of any interest in any land, affected by the certificate notwithstanding the expiration, lapsing, cancellation, surrender, suspension, or transfer of the deemed permit to which it relates.

(5) Without limiting subsection (1), any certificate registered under this section may be transferred by the holder of the deemed permit, or any permit issued in substitution for it, to the person to whom such permit is transferred, by means of a transfer instrument to be registered under the provisions of the Land Transfer Act 2017.

(6) Where any certificate is produced to the Registrar-General of Land under this section, the Registrar-General of Land shall enter on every record of title, lease, licence to occupy, provisional register, or other instrument of title registered or filed in the Registrar-General of Land's office and relating to that land, the particulars of the deemed permit, including the file reference.

(7) Nothing in the Land Transfer Act 2017 shall limit or affect any right, title, or interest held under a deemed permit over land of which the holder of the permit is not the owner before the certificate has been registered and particulars have been entered by the Registrar-General of Land on the instrument of title affected in accordance with subsection (6).

(8) If the land affected by subsection (1) or any part of it is not subject to the Land Transfer Act 2017, and dealings with the land or part not so subject are not registerable under the Deeds Registration Act 1908, the person in whose favour the right continues may at any time obtain from the relevant regional council a certificate in terms of subsections (1) and (2), and may lodge a true copy of the certificate in the office of the Chief Surveyor; and the Chief Surveyor shall note the existence of the certificate on the proper plans and records of the land district.

Section 417(1): amended, on 7 July 1993, by section 198(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 417(1)(b): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(4)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(4)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(5): replaced, on 7 July 1993, by section 198(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 417(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(6): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 417(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 417(7): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 417(8): inserted, on 7 July 1993, by section 198(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 417(8): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

*Existing uses*

### 417A Uses of lakes and rivers not restricted by section 9

(1) Notwithstanding section 374(4), for the purposes of this Act, section 9(3) and (4) do not apply in respect of any activity carried out on the surface of water in any lake or river—

(a) unless the activity is specifically referred to, and is controlled or restricted or prohibited by a rule, in a district plan or proposed district plan deemed to be constituted under section 373; or

(b) until a district plan or proposed district plan prepared under Schedule 1 provides otherwise.

(1A) Nothing in subsection (1) shall apply to any commercial activity (being an activity that has, or has the potential to have, as its sole purpose or a related purpose the production of assessable income) carried out in the district of the Queenstown-Lakes District Council.

(1B) The application of subsection (1) or subsection (1A) may be excluded or modified at any time in accordance with Schedule 1.

(2) Where any activity is lawfully carried out in any lake or river or on the surface of any lake or river in accordance with a licence or other authorisation granted pursuant to an application made before 1 October 1991 under any Act, regulation, or bylaw, including an Act, regulation, or bylaw amended, repealed, or revoked by this Act, section 9(3) and (4) shall not apply in respect of that activity to the extent that that activity is permitted by that licence or other authorisation and so long as that licence or other authorisation remains in force.

(3) Where any activity undertaken in any lake or river or on the surface of any lake or river—

(a) is authorised by a licence, permit, or authorisation granted pursuant to an application made under any bylaw continued in force by any provision of subsections (1) to (9) of section 424; or

(b) is, by virtue of section 424(10), exempt from any provision of any bylaw continued in force by subsections (1) to (9) of section 424,—

section 9(3) and (4) shall not, unless a district plan or a proposed district plan otherwise provides, apply in respect of any such activity to the extent that the activity is permitted by the licence, permit, or authorisation or exempted from the bylaw.

Section 417A: inserted, on 7 July 1993, by section 199 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 417A(1): replaced, on 2 September 1996, by section 22(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 417A(1): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 417A(1A): inserted, on 2 September 1996, by section 22(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 417A(1B): inserted, on 2 September 1996, by section 22(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 417A(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 417A(3): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 418 Certain existing permitted uses may continue

(1) For the purposes of this Act, section 15(1)(c) shall not apply in respect of any discharge from any industrial or trade premises which would not have required any licence or other authorisation under the Clean Air Act 1972, unless a regional plan provides otherwise.

(1A) Notwithstanding subsection (1), for the purposes of this Act, section 15(1)(c) shall apply to any discharges from industrial or trade premises used for the storage, transfer, treatment, or disposal of waste materials or other waste-management purposes, or for composting organic material, commenced after 1 October 1991.

(1B) For the purposes of this Act, section 15(1)(d) does not apply in respect of any discharge of a contaminant from any industrial or trade premises which would not have required any licence or other authorisation to discharge contaminants onto or into land under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, unless a regional plan provides otherwise.

(1C) Notwithstanding subsection (1B), for the purposes of this Act, section 15(1)(d) shall apply in respect of any discharges from industrial or trade premises used for the storage, transfer, treatment, or disposal of waste materials or other waste-management purposes, or for composting organic material, where that use of premises is in the nature of a waste-transfer station, land fill, rubbish dump or tip, unless—

(a) the discharge is expressly allowed by a rule in a proposed regional plan; or

(b) an application for a permit to discharge the contaminant has been lodged with the regional council.

(2) For the purposes of this Act, section 14(2)(b) and (c) do not apply in respect of any use or taking of geothermal energy for any purpose authorised under section 6 or section 9(1)(b) or section 9(1)(c) of the Geothermal Energy Act 1953

within a region until the third anniversary of the date of commencement of this Act, unless a regional plan for that region sooner provides otherwise.

(3) For the purposes of this Act, section 13(1) shall not apply in respect of any activity lawfully being carried out in relation to the bed of any river or lake before 1 October 1991 which did not require any licence or other authorisation relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, until a regional plan provides otherwise.

(3A) For the purposes of this Act (except where section 383A applies), section 13(1) shall not apply in respect of any activity lawfully being carried out in relation to the bed of any river or lake while any licence or other authorisation, granted pursuant to an application made before 1 October 1991, relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act remains in force, until a regional plan provides otherwise.

(3B) Notwithstanding section 13(1)(a), any use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure or part of any structure in, on, under, or over the bed of any river or lake (whether or not commenced or being carried out) which, before 1 October 1991, could have been lawfully commenced and continued without any licence or other authorisation relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, may be continued or commenced at any time after the date of commencement of this Act until a regional plan provides otherwise.

(3C) For the purposes of this Act, each regional plan under section 368 shall be deemed to include a rule to the effect that every activity described in section 13(1)(a) or (b), in respect of any line defined in section 2(1A) of the Telecommunications Act 1987, is a permitted activity in every case where that activity—

(a) will not cause or contribute to the occurrence of—

(i) any significant change to the movement of water or sediment in the river or lake; or

(ii) any erosion or natural hazard; or

(iii) any adverse effect to the bed of the river or lake; and

(b) will not adversely affect the carrying out of any other lawful activity in respect of the river or lake.

(3D) Every rule deemed to be included in a regional plan by subsection (3C) shall apply until a regional plan provides otherwise.

(4) Without limiting subsection (2), where, immediately before the date of commencement of this Act,—

(a) heat or energy from geothermal water; or

(b) heat or energy from the material surrounding any geothermal water—

was being lawfully taken or used, and such taking or use did not require any licence, permit, or other authorisation under the Geothermal Energy Act 1953, then, notwithstanding section 14(2)(b) and (c), such taking or use may be continued until a regional plan provides otherwise.

(5) For the purposes of this Act, where, immediately before the date of commencement of this Act, any person holds any permit or dispensation granted under—

(a) a bylaw made under section 149 of the Soil Conservation and Rivers Control Act 1941 (relating to watercourses) or section 150 of that Act (relating to land utilisation); or

(b) a bylaw made under section 34A of the Water and Soil Conservation Act 1967 (relating to dam construction); or

(c) a bylaw made under section 4 of the Water and Soil Conservation Amendment Act 1973 (relating to bores and underground water)—

that permit or authorisation shall not be deemed to be a resource consent but that person may, subject to its conditions, continue to undertake the activity authorised by that permit or authorisation within a region until whichever is the sooner of—

(d) the date on which a regional plan for that region provides otherwise; or

(e) the date on which the permit or authorisation expires.

(6) Notwithstanding section 12 where, immediately before the date of commencement of this Act,—

(a) there is in force—

(i) any licence, permit, Order in Council, or approval which is deemed by section 384(1) to be a coastal permit; or

(ii) any lease described in section 425(1) ; and

(b) any activity was or was proposed to be carried out by or on behalf of the holder of that coastal permit, lease, or licence and such activity could have been lawfully commenced and continued in the coastal marine area under section 90 or section 102A(1) or section 108 of the Town and Country Planning Act 1977—

such activity may be continued or commenced at any time after the date of commencement of this Act and continued until—

(c) the expiry of the coastal permit, lease, or licence; or

(d) where section 124 applies, the determination of any application made for a new coastal permit to replace any such coastal permit, lease, or licence and the determination of any appeals in respect of that application; or

(e) a rule is included in a regional coastal plan prepared under this Act which provides that the activity is a controlled activity, a restricted dis-

cretionary activity, a discretionary activity, a non-complying activity, or a prohibited activity—

whichever occurs last.

(6A) For the purposes of this Act, where, in respect of any mooring existing before 1 October 1991, no licence or permit was held which could be deemed to be a coastal permit under section 384(1), then section 12(2)(a) shall not apply to that mooring until 1 year after a regional coastal plan provides otherwise.

(6B) For the purposes of this Act, section 12(1) and (2) shall not apply in respect of any activity lawfully being carried out in the coastal marine area, before 1 October 1991, which did not require any licence or other authorisation relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, until a regional coastal plan provides otherwise.

(6C) For the purposes of this Act, section 12(2)(a) shall not apply in respect of the occupation of any warehouse, building, wharf, or other structure in or partly within the coastal marine area under any lease, licence, permit, or other authorisation in force immediately before 1 October 1991, and entered into under section 173(f) of the Harbours Act 1950 (or any former enactment).

(7) Except as provided in subsection (6), section 12 shall not apply to any activity being carried out on the date of commencement of this Act in the coastal marine area under section 90 or section 102A(1) or section 108 of the Town and Country Planning Act 1977 until the third anniversary of the date of commencement of this Act, unless a rule in a regional coastal plan prepared under this Act sooner provides that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, a non-complying activity, or a prohibited activity.

(8) For the purposes of this Act, section 14(2)(a) shall not apply to the activities of ships, boats, and vessels in respect of the operational needs of those craft where, before 1 October 1991, no licence or authorisation was required for those activities under any Act repealed by this Act, until a regional plan provides otherwise.

(9) For the purposes of this Act, section 14(2)(a) shall not apply in respect of any activity lawfully being carried out in relation to the taking of water from a reservoir for water supply purposes, before 1 October 1991, which did not require any licence or other authorisation relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, until the tenth anniversary of the date of commencement of this Act, unless a regional plan sooner provides otherwise.

Section 418(1): replaced, on 2 September 1996, by section 23(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 418(1A): replaced, on 2 September 1996, by section 23(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 418(1B): replaced, on 17 December 1997, by section 67(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 418(1C): replaced, on 2 September 1996, by section 23(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 418(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 418(3): replaced, on 7 July 1993, by section 200(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(3A): inserted, on 7 July 1993, by section 200(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(3B): inserted, on 7 July 1993, by section 200(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(3C): inserted, on 7 July 1993, by section 200(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(3C): amended, on 20 December 2001, pursuant to section 159(8) of the Telecommunications Act 2001 (2001 No 103).

Section 418(3D): inserted, on 7 July 1993, by section 200(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(4): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 418(4): amended, on 7 July 1993, by section 200(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(5)(b): amended, on 7 July 1993, by section 200(4) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(6)(a)(ii): amended, on 1 January 2005, by section 30(1) of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

Section 418(6)(e): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 418(6A): inserted, on 7 July 1993, by section 200(5) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(6A): amended, on 2 September 1996, by section 23(3) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 418(6B): inserted, on 7 July 1993, by section 200(5) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(6C): inserted, on 7 July 1993, by section 200(5) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(7): amended, on 1 August 2003, by section 95 of the Resource Management Amendment Act 2003 (2003 No 23).

Section 418(8): inserted, on 7 July 1993, by section 200(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(8): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 418(9): inserted, on 7 July 1993, by section 200(6) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 418(9): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 419 Certain discharges affected by water classifications

(1) Where—

(a) provisions of a final water classification of the kind referred to in section 368(2)(b) are deemed to constitute the provisions of a regional plan under section 368(1) or a regional coastal plan under section 370(1); and

(b) immediately before the date of commencement of this Act, in respect of any receiving water to which those provisions apply, any discharge of waste within the meaning of the Water and Soil Conservation Act 1967 was authorised to be continued under section 26K(2) of that Act—

any person so authorised shall, subject to subsection (2), continue to be so authorised for the same period, to the same extent, and subject to the same conditions, pending that person's application for a resource consent to discharge such waste into the receiving water and the determination of any appeals in respect of that application.

(2) Any person authorised under subsection (1) to continue any discharge of waste shall cease to be so authorised upon the second anniversary of the date of commencement of this Act unless by that anniversary that person has made an application under this Act to the relevant regional council for a resource consent to discharge such waste.

(3) This section shall apply notwithstanding anything to the contrary in this Act.

### 420 Designations and requirements continued

(1) Where, immediately before the date of commencement of this Act,—

(a) a designation is included in an operative district scheme or combined scheme under section 36(8), section 43, or section 118 of the Town and Country Planning Act 1977 or the corresponding provisions of any former enactment; or

(b) a requirement has been made under section 118 of that Act, and a territorial authority has an obligation under subsection (9) of that section to include the requirement in a district scheme or combined scheme but has not done so,—

the designation or requirement shall, to the extent that it has effect within a coastal marine area, cease to have such effect but shall be deemed to be a coastal permit for the public work or project or work to which the designation or requirement relates which takes effect on the date of commencement of this Act, and the provisions of this Act shall apply accordingly.

(2) Except as provided in subsection (1), where, immediately before the date of commencement of this Act,—

(a) a designation is included in an operative district scheme or combined scheme under section 36(8), section 43, or section 118 of the Town and Country Planning Act 1977 or the corresponding provisions of any for-

mer enactment, the designation shall be deemed to be a designation included in the relevant district plan under section 175:

(b) a requirement has been made under section 118 of that Act, and a territorial authority has an obligation under subsection (9) of that section to include the requirement in a district scheme or combined scheme but has not done so, the territorial authority shall, as soon as reasonably practicable and without using the process in Schedule 1, include a designation in respect of that requirement in the relevant district plan in accordance with section 175,—

and the person responsible for the designation shall be deemed to be a requiring authority for that designation; and the provisions of this Act shall apply accordingly.

(3) For the purposes of section 184 and section 184A, every designation referred to in subsection (2)(a) shall be deemed to have been included in the district plan on the date of commencement of this Act.

(4) *[Repealed]*

(5) Where a designation is included in a district plan under subsection (2)(a) or (2)(b) in respect of a project or work that is not a work of a local authority or Minister of the Crown, the designation shall remain in force until the plan is made operative, and shall then lapse unless the person responsible for the project or work has been approved as a requiring authority in respect of that project or work under section 167.

(5A) All notices given, before the commencement of this subsection, under section 183 by a person deemed to be a requiring authority under subsection (2) are hereby validated and declared to have been lawfully given.

(6) The person responsible for a project or work referred to in subsection (5) may, in accordance with section 167, apply to the Minister for approval as a requiring authority in respect of that project or work.

(7) Except as provided in subsection (1), every requirement made under section 43 or section 118 of the Town and Country Planning Act 1977 which, immediately before the date of commencement of this Act, has neither been provided for in the relevant district scheme nor been withdrawn or revoked—

(a) to the extent that the requirement has effect within the coastal marine area, shall be deemed to be withdrawn:

(b) except as provided in paragraph (a), shall be deemed to be a requirement that has been notified under section 168, and section 422 shall apply to it.

(8) Subsection (7) applies whether or not the requirement is the subject of any proceedings before a territorial authority, the Environment Court, or any other court.

Section 420(2): amended, on 7 July 1993, by section 201(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 420(2)(b): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 420(3): amended, on 17 December 1997, by section 68(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 420(4): repealed, on 17 December 1997, by section 68(2) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 420(5): replaced, on 7 July 1993, by section 201(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 420(5A): inserted, on 7 July 1993, by section 201(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 420(8): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

## 421 Protection notices to become heritage orders

(1) The following provisions apply in respect of every protection notice issued under section 36 of the Historic Places Act 1980 which, immediately before the commencement of this Act, is included in an operative district scheme or combined scheme under section 125B(10) of the Town and Country Planning Act 1977, or the corresponding provisions of any former enactment, namely:

(a) to the extent that the notice has effect within the coastal marine area, the notice shall be deemed to be cancelled:

(b) except as provided in paragraph (a), the notice shall be deemed to be a heritage order included in the relevant district plan, and the provisions of this Act shall apply accordingly.

(2) The following provisions apply in respect of every protection notice issued under section 36 of the Historic Places Act 1980 which, immediately before the date of commencement of this Act, has not been included in an operative district scheme or combined scheme under section 125B(10) of the Town and Country Planning Act 1977, namely—

(a) to the extent that the notice has effect within a coastal marine area, the notice shall be deemed to be withdrawn:

(b) except as provided in paragraph (a),—

(i) in a case where a territorial authority has an obligation under section 125B(10) of that Act to include the notice in an operative district scheme or combined scheme but has not done so, the territorial authority shall, as soon as reasonably practicable and without using the process in Schedule 1, include a heritage order in respect of the notice in the relevant district plan in accordance with section 192:

(ii) in any other case, the notice shall be deemed to be a requirement for a heritage order that has been notified under section 189, and section 422 shall apply to it.

(3) Subsection (2)(a) shall apply whether or not the notice is the subject of any proceedings before a territorial authority, the Environment Court, or any other court.

Section 421(2)(b)(i): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 421(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 422 Procedure for requirements for designations and protection notices

(1) This section applies to requirements and notices of the kinds referred to in sections 420(7)(b) and 421(2)(b)(ii).

(2) Where, before the date of commencement of this Act, a local authority has been notified of or served with a requirement or notice to which this section applies, and on the date of commencement of this Act, any hearing involved in the territorial authority's consideration of the requirement or notice—

(a) has commenced, the territorial authority shall proceed with that consideration and make its recommendation accordingly as if this Act had not been enacted:

(b) has not commenced, the territorial authority shall deal with the requirement or notice as if it were a requirement for a designation or heritage order, as the case may be, and the provisions of this Act shall apply accordingly.

(3) Except as provided in subsection (2), a territorial authority that has been notified of or served with a requirement or notice to which this section applies shall, as soon as reasonably practicable after the date of commencement of this Act, decide whether the requirement or notice is to be dealt with after that date—

(a) in accordance with the Town and Country Planning Act 1977; or

(b) in accordance with this Act as if the requirement or notice were a requirement for a designation or heritage order, as the case may be; or

(c) partly in accordance with that Act and otherwise in accordance with this Act,—

and any such decision shall be final and not subject to appeal to or review by any court or the Environment Court.

(4) When making a decision for the purposes of subsection (3), the territorial authority shall comply with any regulations and also shall have regard to any representations made to it by the person who made the requirement or gave the notice, or any other person, as to the appropriate manner of dealing with the requirement or notice.

(5) Every territorial authority that makes a decision under subsection (3) shall ensure that written notice of—

(a) the decision; and

(b) anything that the person who made the requirement or gave the notice is required to do as a result of the decision—

is served as soon as reasonably practicable after the decision is made on every person (including the person who made the requirement or gave the notice) whom the territorial authority considers should receive notice.

(6) Any territorial authority's recommendation in respect of a requirement or a notice to which this section applies, made in accordance with this section, and any decision by—

(a) a Minister of the Crown or a local authority; or

(b) the New Zealand Historic Places Trust constituted under the Historic Places Act 1993—

in respect of that recommendation, shall have effect according to its tenor notwithstanding that all requirements of this Act in relation to designations and heritage orders and requirements therefor may not have been complied with, and any such decision may be appealed against in accordance with this Act accordingly.

(7) A person who, if this Act had not been enacted, has a right of appeal under section 118(7) or section 125B(8) of the Town and Country Planning Act 1977 in respect of a decision on a requirement or a protection notice may continue to exercise that right.

(8) Any appeal to the Environment Court—

(a) under section 118(7) of the Town and Country Planning Act 1977 in respect of a decision on a requirement; or

(b) under section 125B(8) of that Act in respect of a decision on a protection notice; or

(c) under subsection (7)—

shall be continued and completed—

(d) where the appeal has been wholly or partly heard, as if the enactments repealed by this Act continued in force; and

(e) in every other case, as if the appeal had been commenced under this Act, which shall apply accordingly.

Section 422(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 422(6)(b): amended, on 1 July 1993, pursuant to section 118(1) of the Historic Places Act 1993 (1993 No 38).

Section 422(8): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 423 National water conservation orders

(1) A national water conservation order made under section 20D of the Water and Soil Conservation Act 1967, and in force immediately before the date of com-

mencement of this Act, shall be deemed to be a water conservation order made on the same terms under section 214.

(2) Where, before the date of commencement of this Act, an application for a water conservation order has been made under section 20A of the Water and Soil Conservation Act 1967, and on the date of commencement of this Act—

(a) the application has not been publicly notified under section 20B of that Act, the application shall be deemed to be an application made on that date under section 201, and the provisions of this Act shall apply accordingly; or

(b) the application has been publicly notified under section 20B of that Act but, immediately before the date of commencement of this Act, the Minister was still considering the application, the Minister shall, having regard to the progress made in consideration of the application, as soon as reasonably practicable after the date of commencement of this Act, decide whether the application is to be dealt with after that date in accordance with—

(i) the provisions of the Water and Soil Conservation Act 1967 as if this Act had not been enacted; or

(ii) the provisions of that Act as if this Act had not been enacted, but having regard to the matters set out in sections 199 and 207; or

(iii) this Act as if the application had been made under this Act,—

and shall ensure that written notice of the decision is served as soon as reasonably practicable on every person (including the applicant) whom the Minister considers should receive notice. Any such decision by the Minister shall be final and not subject to appeal to, or review by, any court or the Environment Court.

(3) Any person who, if this Act had not been enacted, would have had a right under section 20C(1) of the Water and Soil Conservation Act 1967 to make submissions on or an objection to a draft national water conservation order under section 20B(7)(a) or any decision under section 20B(7)(c) of that Act may continue to exercise that right.

(4) All inquiries by the Environment Court under section 20C of the Water and Soil Conservation Act 1967 commenced before the date of commencement of this Act and not completed at that date, and all inquiries initiated by the lodging of submissions and objections and not commenced at that date, and all inquiries in respect of submissions or objections made after the date of commencement of this Act by virtue of subsection (3), shall be continued and completed in all respects as if the Water and Soil Conservation Act 1967 continued in force and this Act had not been enacted.

Section 423(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 423(4): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

*Miscellaneous provisions*

### 424 Savings as to bylaws

(1) Every bylaw described in section 368(2)(e) that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, for all purposes be deemed to have been lawfully made by the regional council for the area to which the bylaw relates, and shall continue in force within that area until—

(a) the bylaw is publicly notified as a provision of a regional plan for the purposes of section 369(2) in accordance with section 376; or

(b) the expiry of 3 years from the date of commencement of this Act—

whichever is the earlier, and shall then expire.

(2) Every bylaw made under the Harbours Act 1950, in respect of any area in the coastal marine area, by—

(a) any Harbour Board (within the meaning of that Act) relating to any matters specified in paragraphs (4), (7), (34), (34A), (36), (37), (38), (41), (42), and (44) of section 232 of that Act; or

(b) any public body (within the meaning of that Act) under section 8A of that Act—

and that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the regional council for the region to which the bylaw relates and shall continue in force within that area until the expiry of 8 years after the date of commencement of this Act, and shall then expire.

(3) Every bylaw made under the Harbours Act 1950 in respect of any area that is not within the coastal marine area by—

(a) any Harbour Board (within the meaning of that Act) relating to any matters specified in paragraphs (4), (7), (34), (37), (38), (41), (42), and (44) of section 232 of that Act; or

(b) any public body (within the meaning of that Act) under section 8A or section 165(2) of that Act—

and that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the territorial authority for the area to which the bylaw relates and shall continue in force within that area until the expiry of 8 years after the date of commencement of this Act, and shall then expire.

(4) Except as provided in subsection (3), every bylaw made under section 165 or section 232(36) of the Harbours Act 1950 and that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the regional council for the region to which the bylaw relates and shall continue in force within that area until the expiry of 8 years after the date of commencement of this Act, and shall then expire.

(5) Subject to subsection (6)—

(a) every bylaw referred to in subsections (2) and (4) may from time to time be altered or revoked by the regional council; and

(b) every bylaw referred to in subsection (3) may from time to time be altered or revoked by the territorial authority—

for the region or area to which the bylaw relates, in the manner provided in section 681 of the Local Government Act 1974, as if the bylaw had been made by the regional council, or as the case may be, the territorial authority under that Act.

(6) The alteration under subsection (5) of any bylaw referred to in subsections (2), (3), and (4) shall not come into force until the alteration has been approved by the Minister of Conservation and the Minister of Transport, jointly, by notice in the *Gazette*.

(7) Sections 233, 234(2), 235, 236, 237, and 239 of the Harbours Act 1950, so far as they are applicable and with all necessary modifications, shall continue to apply to those bylaws referred to in subsections (2), (3), and (4) as if the regional council or, as the case may be, the territorial authority, were the Harbour Board.

(8) Where, immediately before the date of commencement of this Act, there was in force any bylaw (in this subsection called a **former bylaw**) made pursuant to section 3 of the Lakes District Waterways (Shotover River) Empowering Act 1985, there shall be deemed to be in force, as from the date of commencement of this Act, in substitution for the former bylaw, a new bylaw on the same terms and conditions and with the same force and effect as the former bylaw; and subsections (3) to (7) and (9) and section 427 shall apply to the new bylaw as if that new bylaw were a bylaw made by a public body (within the meaning of the Harbours Act 1950) under the Harbours Act 1950.

(9) A local authority that has functions, powers, and duties under any bylaw referred to in any of subsections (2), (3), (4), and (8) may, while the bylaw is in existence, transfer any 1 or more of those functions, powers, or duties to another public authority in accordance with section 33.

(10) The Water Recreation Regulations 1979 and any regulations amending or in substitution for those regulations shall not apply within any area for which a bylaw made under section 232(42) of the Harbours Act 1950 and in force

immediately before the date of commencement of this Act continues to be in force.

(11) Where a proposed regional coastal plan has been notified and any inconsistencies arise between the provisions of that proposed plan and the bylaws under subsection (2) or subsection (4), the provisions of the proposed regional coastal plan shall prevail.

Section 424(1)(b): amended, on 7 July 1993, by section 202(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 424(2): amended, on 2 September 1996, by section 24(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 424(3): amended, on 2 September 1996, by section 24(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 424(4): amended, on 2 September 1996, by section 24(1) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 424(8): inserted, on 7 July 1993, by section 202(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 424(9): inserted, on 7 July 1993, by section 202(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 424(10): inserted, on 7 July 1993, by section 202(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 424(11): inserted, on 7 July 1993, by section 202(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Section 424(11): amended, on 2 September 1996, by section 24(2) of the Resource Management Amendment Act 1996 (1996 No 160).

### 425 Leases, licences, and other authorities under Harbours Act 1950

(1) Every lease made under section 154 of the Harbours Act 1950 and in force immediately before the date of commencement of this Act shall, notwithstanding the amendment of that Act by this Act, continue in force after the date of commencement of this Act on the same conditions and with the same effect as if this Act had not been enacted; and all the provisions of that Act relating to any such lease or licence or conferring or imposing any right, power, privilege, function, duty, or liability on any party to any such lease or licence shall continue to apply in respect of that lease or licence accordingly.

(2) Notwithstanding anything to the contrary in this Act, section 124 shall apply to any lease described in subsection (1) when that lease is due to expire as if every reference in that section to a resource consent or an original resource consent were a reference to that lease.

(3) Except as provided in section 384(1)—

(a) every licence or permit granted under section 146A or section 156 or section 162 or section 165 of the Harbours Act 1950; and

(b) every Order in Council made under section 175 of that Act; and

(c) every approval granted under section 178(1)(b) or (2) of that Act—

shall, notwithstanding the amendment of that Act by this Act, continue in force after the date of commencement of this Act on the same conditions and with the same effect as if that Act had not been so amended.

(4) This section applies subject to section 12 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

Section 425(3)(c): amended, on 7 July 1993, by section 203 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 425(4): inserted, on 1 January 2005, by section 31 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 425A Functions and powers in respect of activities on or in Lake Taupo

(1) Nothing in this Act shall have the effect of giving any local authority any power, duty, function, or control in respect of any activity on or in Lake Taupo where that power, duty, function, or control was exercised, at the date of commencement of this Act, by—

(a) the Minister of Internal Affairs; or

(b) the Minister of Transport; or

(c) the Lake Taupo Harbourmaster; or

(d) the Secretary for Local Government; or

(e) the Secretary for Internal Affairs—

under any of the enactments referred to in subsection (2).

(2) The enactments to which subsection (1) applies are as follows:

(a) the Maori Land Amendment and Maori Land Claims Adjustment Act 1926:

(b) the Harbours Act 1950:

(c) the Shipping and Seamen Act 1952:

(d) the General Harbour (Nautical and Miscellaneous) Regulations 1968:

(e) the Lake Taupo Regulations 1976:

(f) the Water Recreation Regulations 1979:

(g) the Shipping (Distress Signals and Prevention of Collisions) Regulations 1988:

(h) the Water Recreation (Waikato River Outlet, Lake Taupo) Notice 1983 (*Gazette*, 1983, Vol I, page 177):

(i) the Water Recreation (Waikato River Outlet, Lake Taupo) Notice 1983, No 2 (*Gazette*, 1983, Vol III, page 3640):

(j) any other regulation or notice made under the Harbours Act 1950 and applying to Lake Taupo.

(3) For the purposes of this section, **Lake Taupo** has the same meaning as lake in the Lake Taupo Regulations 1976.

Section 425A: inserted, on 7 July 1993, by section 204 of the Resource Management Amendment Act 1993 (1993 No 65).

### 426 Leases and licences executed under Marine Farming Act 1971

*[Repealed]*

Section 426: repealed, on 1 January 2005, by section 32 of the Resource Management Amendment Act (No 2) 2004 (2004 No 103).

### 427 Deemed transfer of powers to former public bodies

(1) This section shall apply notwithstanding anything to the contrary in section 33 or in any other enactment or rule of law.

(2) Where, before the date of commencement of this Act,—

(a) any public body, or any 2 or more public bodies acting jointly, or any Harbour Board, were exercising any current function, power, or duty in respect of any bylaws conferred by the Harbours Act 1950 or by any Order in Council under section 8A or section 165 of that Act in relation to any part of the coastal marine area; and

(b) the public body or public bodies or Harbour Board (as the case may be) were administering any bylaw in force under either of those sections—

then, on the date of commencement of this Act, the relevant regional council shall be deemed to have transferred those functions, powers, and duties that are described in subsection (4) to the public body or public bodies or Harbour Board (as the case may be) for a period commencing on the date of commencement of this Act and ending on 30 June 1992, and the public body or public bodies or Harbour Board (as the case may be) shall be deemed to have accepted the transfer.

(3) Where, before the date of commencement of this Act,—

(a) any public body, or any 2 or more public bodies acting jointly, or any Harbour Board, were exercising any current function, power, or duty in respect of any bylaws conferred by the Harbours Act 1950 or by any Order in Council under section 8A or section 165 of that Act in relation to any river or lake; and

(b) the public body or public bodies or Harbour Board (as the case may be) were administering any bylaw in force under either of those sections—

then, on the date of commencement of this Act, the relevant territorial authority shall be deemed to have transferred those functions, powers, and duties that are described in subsection (5) to the public body or public bodies or Harbour Board (as the case may be) for a period commencing on the date of commencement of this Act and ending on 30 June 1992, and the public body or public bodies or Harbour Board (as the case may be) shall be deemed to have accepted the transfer.

(4) Subject to subsection (8), the regional council shall be deemed to have transferred to the relevant public body, public bodies, or Harbour Board under subsection (2)—

(a) the full power to do anything under every bylaw referred to in section 424(2) and (4) (except the power to make, alter, or revoke any such bylaw); and

(b) the full power and duty to enforce every such bylaw—

in the same manner and to the same extent as the relevant public body or public bodies were authorised to do so by Order in Council under section 8A or section 165 of the Harbours Act 1950 or, as the case may be, the relevant Harbour Board was authorised to do so under that Act before that Act was amended by this Act.

(5) Subject to subsection (8), the relevant territorial authority shall be deemed to have transferred to the relevant public body, public bodies, or Harbour Board under subsection (3)—

(a) the full power to do anything under every bylaw referred to in section 424(3) (except the power to make, alter, or revoke any such bylaw); and

(b) the full power and duty to enforce every such bylaw—

in the same manner and to the same extent as the relevant public body or public bodies were authorised to do so by Order in Council under section 8A or section 165 of the Harbours Act 1950 or, as the case may be, the relevant Harbour Board was authorised to do so under that Act before that Act was amended by this Act.

(6) Where, immediately before the date of commencement of this Act, any combined committee within the meaning of section 40A of the Town and Country Planning Act 1977 was exercising any function, power, or duty in respect of a combined scheme within the meaning of that section, then, on the date of commencement of this Act,—

(a) the relevant regional council shall be deemed to have transferred to the combined committee all of its functions, powers, and duties in relation to those provisions of the coastal plan deemed to be operative under section 370 that were formerly part of the combined scheme; and

(b) the relevant territorial authority shall be deemed to have transferred to the combined committee all of its functions, powers, and duties in relation to those provisions of the district plan deemed to be operative under section 373 that were formerly part of the combined scheme—

other than the power to approve any changes to the plan.

(7) Where, immediately before the date of commencement of this Act,—

(a) any proposed district scheme, maritime planning scheme, or combined scheme under the Town and Country Planning Act 1977, or change to or

variation or review of any such scheme under that Act, has been publicly notified but is not yet operative; and

(b) any such proposed scheme or change to or variation or review of any such scheme relates solely or in part to the whole or any part of the coastal marine area of a region—

then, subject to subsection (8), in respect of any such proposed scheme, change, variation, or review, or part thereof, on the date of commencement of this Act, the relevant regional council shall be deemed to have transferred all functions, powers, and duties that are described in section 378 other than—

(c) the approval of the relevant scheme or change; and

(d) any decision to approve or to withdraw any such scheme or change—

to the territorial authority or combined committee (as the case may be) which, before the date of commencement of this Act, was responsible for such proposed scheme, change, variation, or review (and who shall be deemed to have accepted the transfer), for a period commencing on the date of commencement of this Act and ending on the date such scheme, change, variation, or review is completed and becomes operative in accordance with section 378(1).

(8) The provisions of section 33, with all necessary modifications, shall apply to every transfer under subsection (2) or subsection (3) or subsection (6) or subsection (7) as if the transfer was made under that section and—

(a) in the case of a transfer made under subsection (2)—

(i) the regional council shall continue to have the power to change or revoke that transfer; and

(ii) the public body, public bodies, or Harbour Board (as the case may be) shall have the power to relinquish the transfer at any time:

(b) in the case of a transfer made under subsection (3)—

(i) the territorial authority shall continue to have the power to change or revoke that transfer; and

(ii) the public body, public bodies, or Harbour Board (as the case may be) shall have the power to relinquish the transfer at any time:

(c) in the case of a transfer made under subsection (6)—

(i) the regional council shall continue to have the power to change or revoke that transfer so far as it relates to any provisions of the regional coastal plan under section 370; and

(ii) the territorial authority shall continue to have the power to change or revoke that transfer so far as it relates to any provisions of the district plan under section 373; and

(iii) the combined committee shall have the power to relinquish the transfer at any time:

(d) in the case of a transfer made under subsection (7)—

(i) the regional council shall continue to have the power to change or revoke that transfer; and

(ii) the territorial authority shall have the power to relinquish the transfer at any time—

as if the transfer was made under section 33.

(9) This section does not limit the powers of the regional council or territorial authority under section 33.

(10) In this section, **public body** and **public bodies acting jointly**, and **Harbour Board** have the same meanings as in sections 2(1), 8A(12)(a), and 165(10) of the Harbours Act 1950 before the repeal of those sections by this Act.

Section 427(2)(a): amended, on 7 July 1993, by section 206 of the Resource Management Amendment Act 1993 (1993 No 65).

### 428 Environment Court

(1) The person who, immediately before the commencement of this Act, held office as the Principal Environment Judge of the Environment Court shall, as from the commencement of this Act, continue to hold office as such as if his or her appointment was made under section 251.

(2) Each person who, immediately before the commencement of this Act, held office as an Environment Judge or an alternate Environment Judge of the Environment Court shall, as from the commencement of this Act, continue to hold office as such as if his or her appointment was made under section 250.

(3) Each person who, immediately before the commencement of this Act, held office as a member (other than an Environment Judge) or a deputy member of the Environment Court shall, as from the commencement of this Act, be deemed to hold office as an Environment Commissioner or, as the case may be, a Deputy Environment Commissioner of the Environment Court, for the remainder of the term of his or her appointment as if his or her appointment was made under section 254.

Section 428 heading: replaced, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(1): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(2): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(3): amended, on 2 September 1996, pursuant to section 6(2)(b) of the Resource Management Amendment Act 1996 (1996 No 160).

Section 428(3): amended, on 2 September 1996, pursuant to section 6(2)(c) of the Resource Management Amendment Act 1996 (1996 No 160).

### 429 Savings as to compensation claims

Where, immediately before the date of commencement of this Act, any claim for compensation under any enactment repealed by this Act has been or could be made, that claim may be made or continued and enforced in all respects as if this Act had not been enacted.

### 430 Savings as to court proceedings

Except as expressly provided in this Act, nothing in this Act shall affect the rights of any party to any proceedings commenced in any court on or before the commencement of this Act.

### 431 Obligation to prepare draft New Zealand coastal policy statement within 1 year

(1) The Minister of Conservation shall, in accordance with this Act and within 1 year after the date of commencement of this Act, publicly notify a proposed New Zealand coastal policy statement.

(2) The Minister of Conservation shall not, if he or she complies with subsection (1), be in breach of section 57 during the period from the date of commencement of this Act until the New Zealand coastal policy statement becomes operative.

Section 431 heading: amended, on 7 July 1993, by section 207 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 431(1): amended, on 7 July 1993, by section 207 of the Resource Management Amendment Act 1993 (1993 No 65).

### 432 Obligation to prepare regional policy statements and coastal plans within 2 years

(1) Every regional council shall, in accordance with this Act and within 2 years after the date of commencement of this Act, publicly notify a proposed regional policy statement for its region.

(1A) Every regional council shall, in accordance with this Act, publicly notify, by 1 July 1994, a proposed regional coastal plan or plans for its region.

(2) A regional council that complies with subsection (1) shall not be in breach of section 60 or section 64, as the case may be, during the period from the date of commencement of this Act until the policy statement or plan becomes operative.

Section 432(1): replaced, on 7 July 1993, by section 208 of the Resource Management Amendment Act 1993 (1993 No 65).

Section 432(1A): inserted, on 7 July 1993, by section 208 of the Resource Management Amendment Act 1993 (1993 No 65).

### 433 Collection of water management charges

All charges fixed by special order made under section 24K of the Water and Soil Conservation Act 1967 in respect of the financial year ending with 30 June 1992 may be collected as if that Act had not been repealed by this Act.

## Part 16
## Transitional provisions for amendments made on or after commencement of Resource Management Amendment Act 2013

*[Repealed]*

Part 16: repealed, on 19 April 2017, by section 118 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 434 Transitional provisions for amendments made on or after commencement of Resource Management Amendment Act 2013

*[Repealed]*

Section 434: repealed, on 19 April 2017, by section 118 of the Resource Legislation Amendment Act 2017 (2017 No 15).

# Schedule 1
# Preparation, change, and review of policy statements and plans

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# Part 1
# Preparation and change of policy statements and plans by local authorities

## 1 Time limits

(1) *[Repealed]*

(2) Where any time limit is set in this schedule, a local authority may extend it under section 37.

(3) Where no time limit is set, section 21 (obligation to avoid unreasonable delay) applies.

(4) Where, under this schedule, a request for a plan change is to be heard and an application for a resource consent or a requirement for a designation or heritage order has been made in relation to the same proposal, section 102 (joint hearings) and section 103 (combined hearings) may apply.

Schedule 1 clause 1 heading: amended, on 1 October 2009, by section 149(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 1(1): repealed, on 1 October 2009, by section 149(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 1(4): inserted, on 7 July 1993, by section 209 of the Resource Management Amendment Act 1993 (1993 No 65).

### 1A Mana Whakahono a Rohe to be complied with

(1) A proposed policy statement or plan must be prepared in accordance with any applicable Mana Whakahono a Rohe.

(2) A local authority may comply with clause 3(1)(d) in any particular case by consulting relevant iwi authorities about a proposed policy statement or plan in accordance with a Mana Whakahono a Rohe.

Schedule 1 clause 1A: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 1B Relationship with iwi participation legislation

Nothing in this schedule limits any relevant iwi participation legislation or agreement under that legislation.

Schedule 1 clause 1B: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 2 Preparation of proposed policy statement or plan

(1) The preparation of a policy statement or plan shall be commenced by the preparation by the local authority concerned, of a proposed policy statement or plan.

(2) A proposed regional coastal plan must be prepared by the regional council concerned in consultation with—

(a) the Minister of Conservation; and

(b) iwi authorities of the region; and

(c) any customary marine title group in the region.

Schedule 1 clause 2(2): replaced, on 17 January 2005, by section 36(1) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Schedule 1 clause 2(2)(c): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 3 Consultation

(1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—

(a) the Minister for the Environment; and

(b) those other Ministers of the Crown who may be affected by the policy statement or plan; and

(c) local authorities who may be so affected; and

(d) the tangata whenua of the area who may be so affected, through iwi authorities; and

(e) any customary marine title group in the area.

(2) A local authority may consult anyone else during the preparation of a proposed policy statement or plan.

(3) Without limiting subclauses (1) and (2), a regional council which is preparing a regional coastal plan shall consult—

(a) the Minister of Conservation generally as to the content of the plan, and with particular respect to those activities to be described as restricted coastal activities in the proposed plan; and

(b) the Minister of Transport in relation to matters to do with navigation and the Minister's functions under Parts 18 to 27 of the Maritime Transport Act 1994; and

(c) the Minister of Fisheries in relation to fisheries management, and the management of aquaculture activities.

(4) In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.

Schedule 1 clause 3(1)(d): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 3(1)(d): amended, on 17 January 2005, by section 36(2) of the Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94).

Schedule 1 clause 3(1)(e): replaced, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Schedule 1 clause 3(3)(b): amended, on 20 August 1998, by section 27 of the Resource Management Amendment Act 1994 (1994 No 105).

Schedule 1 clause 3(4): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 3A Consultation in relation to policy statements

(1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of—

(a) preparing a proposed policy statement or a variation to a proposed policy statement; and

(b) preparing a change to a policy statement; and

(c) reviewing a policy statement.

(2) If an agreement on the consultation process required by subclause (1) is not reached by the date prescribed in section 15(1) of the Local Government Act 2002,—

(a) subclause (1) ceases to apply to that triennial agreement; and

(b) 1 or more of the affected local authorities—

(i) must advise the Minister and every affected local authority as soon as is reasonably practicable after the date prescribed in section 15(1) of the Local Government Act 2002; and

(ii) may submit the matter to mediation.

(3) If subclause (2) applies, the parts of the triennial agreement other than the part relating to the consultative process referred to in subclause (1) may be confirmed before—

(a) an agreement on the consultative process is reached under subclauses (4) and (5)(a); or

(b) the Minister makes a binding determination under subclause (5)(b).

(4) Mediation must be by a mediator or a mediation process agreed to by the affected local authorities.

(5) If the matter is not submitted to mediation or if mediation is unsuccessful, the Minister may either—

(a) make an appointment under section 25 for the purpose of determining a consultation process to be used in the course of preparing a proposed policy statement or reviewing a policy statement; or

(b) make a binding determination as to the consultation process that must be used.

(6) The consultative process must form part of the triennial agreement, whether or not the other parts of the triennial agreement have been confirmed, in the event that—

(a) an agreement is reached under subclause (4) or subclause (5)(a) as to a consultative process, as required by subclause (1); or

(b) the Minister makes a binding determination under subclause (5)(b).

(7) In this clause, **affected local authorities** means—

(a) the regional council of a region; and

(b) every territorial authority whose district is wholly or partly in the region of the regional council.

Schedule 1 clause 3A: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 3B Consultation with iwi authorities

For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

(a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and

(b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and

(c) consults with those iwi authorities; and

(d) enables those iwi authorities to identify resource management issues of concern to them; and

(e) indicates how those issues have been or are to be addressed.

Schedule 1 clause 3B: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 3C Previous consultation under other enactments

A local authority is not required to comply with clause 3 to the extent that any matter in a proposed policy statement or plan has been the subject of consultation with the same person, group of persons, or their representative or agent under another enactment within the 36 months preceding public notification of the proposed policy statement or plan that the matter relates to, so long as that person, group of persons, or their representative or agent were advised that the information obtained from that consultation was also to apply in relation to matters under this Act.

Schedule 1 clause 3C: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 3C: amended, on 1 October 2009, by section 149(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 4 Requirements to be inserted prior to notification of proposed district plans

(1) This clause applies to a new district plan or review of a district plan under section 79(1).

(1A) The territorial authority must give written notice to any requiring authority that has a designation that has not lapsed in the relevant part of the district plan.

(1B) The purpose of the notice is to invite those requiring authorities to give written notice to the territorial authority stating whether the requiring authority requires the designation to be included, with or without modification, in the proposed plan.

(1C) Subclause (1A) applies before the territorial authority—

(a) notifies the district plan, change, or variation under clause 5; or

(b) *[Repealed]*

(c) applies to the Minister for a direction under section 80C to enter the streamlined planning process.

(1D) The written notice must—

(a) give the requiring authority at least 30 working days to respond; and

(b) state which planning process under this schedule it proposes to use or request; and

(c) specify the final date for the requiring authority to provide its written notice.

(d) *[Repealed]*

(2) *[Repealed]*

(2A) *[Repealed]*

(2B) *[Repealed]*

(3) Where the requiring authority states that a designation is to be included in the proposed plan, with modifications, the requiring authority shall include in its written notice the nature of the modifications, and the reasons for the modifications.

(4) If the requiring authority fails to notify the territorial authority in accordance with subclause (1), no provision for the designation shall be included in the proposed plan.

(5) A territorial authority shall include in its proposed plan provision for any designation it receives notice of under this clause, any existing heritage orders, and any requirements for designations and heritage orders to which sections 170 and 192 apply or any requirement to which clause 42 applies.

(6) A territorial authority may include in its proposed district plan—

(a) any requirement for a designation or heritage order which the territorial authority has responsibility for within its district; and

(b) any existing designations or heritage orders, with or without modifications, which the territorial authority has responsibility for within its own district.

(7) If a territorial authority includes a requirement, or modification of a requirement, in its proposed district plan under subclause (6), it must make available for public inspection all information about the requirement that is required by the prescribed form for the notice of that requirement.

(8) *[Repealed]*

(9) A requiring authority may withdraw a requirement for a designation in accordance with section 168(4) and a heritage protection authority may withdraw a requirement for a heritage order in accordance with section 189(4).

(10) If a territorial authority receives notice from a requiring authority that a requirement has been withdrawn, the territorial authority must, as soon as reasonably practicable and without using the process in this schedule, amend its proposed district plan accordingly.

Schedule 1 clause 4: replaced, on 7 July 1993, by section 210 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 4(1): replaced, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(1A): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(1B): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(1C): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(1C)(b): repealed, on 1 July 2020, by section 103(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 4(1D): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(1D)(d): repealed, on 1 July 2020, by section 103(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 4(2): repealed, on 1 July 2020, by section 103(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 4(2A): repealed, on 1 July 2020, by section 103(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 4(2B): repealed, on 1 July 2020, by section 103(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 4(3): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 4(4): amended, on 1 October 2009, by section 149(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 4(5): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(7): replaced, on 1 October 2009, by section 149(6) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 4(8): repealed, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 4(9): inserted, on 1 August 2003, by section 92(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 4(10): inserted, on 1 August 2003, by section 92(1) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 4(10): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 4A Further pre-notification requirements concerning iwi authorities

(1) Before notifying a proposed policy statement or plan, a local authority must—

(a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and

(b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

(2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.

Schedule 1 clause 4A: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 5 Public notice and provision of document to public bodies

(1) A local authority that has prepared a proposed policy statement or plan must—

(a) prepare an evaluation report for the proposed policy statement or plan in accordance with section 32 and have particular regard to that report when deciding whether to proceed with the statement or plan; and

(b) if the local authority decides to proceed with the proposed policy statement or plan, do one of the following, as appropriate:

(i) publicly notify the proposed policy statement or plan:

(ii) give limited notification, as provided for in clause 5A.

(1A) A territorial authority shall, not earlier than 60 working days before public notification or later than 10 working days after public notification of its plan, either—

(a) send a copy of the public notice, and such further information as the territorial authority thinks fit relating to the proposed plan, to every ratepayer for the area of the territorial authority where that person, in the territorial authority's opinion, is likely to be directly affected by the proposed plan; or

(b) include the public notice, and such further information as the territorial authority thinks fit relating to the proposed plan, in any publication or circular which is issued or sent to all residential properties and Post Office box addresses located in the affected area—

and shall send a copy of the public notice to any other person who, in the territorial authority's opinion, is directly affected by the plan.

(1B) Notwithstanding subclause (1A), a territorial authority shall ensure that notice is given of any requirement or modification of a designation or heritage order under clause 4 to land owners and occupiers who, in the territorial authority's opinion, are likely to be directly affected.

(1C) A regional council shall, not earlier than 60 working days before public notification or later than 10 working days after public notification, send a copy of the public notice and such further information as the regional council thinks fit relating to the proposed policy statement or plan to any person who, in the regional council's opinion, is likely to be directly affected by the proposed policy statement or plan.

(2) Public notice under subclause (1) shall state—

(a) where the proposed policy statement or plan may be inspected; and

(b) that any person may make a submission on the proposed policy statement or plan; and

(c) the process for public participation in the consideration of the proposed policy statement or plan; and

(d) the closing date for submissions; and

(e) the address for service of the local authority.

(2A) If the proposed policy statement or plan is a freshwater planning instrument, the public notice under subclause (1) must also—

(a) state whether all or part of the instrument is subject to the freshwater planning process; and

(b) if applicable, state—

(i) which part will undergo the freshwater planning process and the reasons why; and

(ii) which part will undergo the processes in Part 1 of this schedule and the reasons why.

(3) The closing date for submissions—

(a) shall, in the case of a proposed policy statement or plan, be at least 40 working days after public notification; and

(b) shall, in the case of a proposed change or variation to a policy statement or plan, be at least 20 working days after public notification.

(4) A local authority shall provide 1 copy of its proposed policy statement or plan without charge to—

(a) the Minister for the Environment; and

(b) *[Repealed]*

(c) in the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and

(d) in the case of a district plan, the regional council and adjacent local authorities; and

(e) in the case of a policy statement or regional plan, constituent territorial authorities, and adjacent regional councils; and

(f) the tangata whenua of the area, through iwi authorities.

(g) *[Repealed]*

(5) A local authority shall make any proposed policy statement or plan prepared by it available in every public library in its area and in every other place in its area that it considers appropriate.

(6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).

Schedule 1 clause 5(1): replaced, on 3 December 2013, for all purposes, by section 83 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 1 clause 5(1)(b): replaced, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 5(1A): inserted, on 7 July 1993, by section 211(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 5(1A)(a): amended, on 1 October 2009, by section 149(7) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 5(1A)(a): amended, on 7 July 2004, by section 13 of the Local Government (Rating) Amendment Act 2004 (2004 No 66).

Schedule 1 clause 5(1B): inserted, on 7 July 1993, by section 211(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 5(1C): inserted, on 7 July 1993, by section 211(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 5(2A): inserted, on 1 July 2020, by section 103(2) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 5(3)(b): amended, on 7 July 1993, by section 211(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 5(4)(b): repealed, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 5(4)(f): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Schedule 1 clause 5(4)(f): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 5(4)(g): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 5A Option to give limited notification of proposed change or variation

(1) This clause applies to a proposed change or variation.

(2) The local authority may give limited notification, but only if it is able to identify all the persons directly affected by the proposed change or a variation of a proposed policy statement or plan.

(3) The local authority must serve limited notification on all persons identified as being directly affected by the proposed change or variation.

(4) A notice given under this clause must state—

(a) where the proposed change or variation may be inspected; and

(b) that only the persons given limited notification under this clause may make a submission on the proposed change or variation; and

(c) the process for participating in the consideration of the proposed change or variation; and

(d) the closing date for submissions; and

(e) the address for service of the local authority.

(5) The local authority may provide any further information relating to a proposed change or variation that it thinks fit.

(6) The closing date for submissions must be at least 20 working days after limited notification is given under this clause.

(7) If limited notification is given, the local authority may adopt, as an earlier closing date, the last day on which the local authority receives, from all the directly

affected persons, a submission, or written notice that no submission is to be made.

(8) The local authority must provide a copy of the proposed change or variation, without charge, to—

(a) the Minister for the Environment; and

(b) for a change to, or variation of, a regional coastal plan, the Minister of Conservation and the Director-General of Conservation; and

(c) for a change to, or variation of, a district plan, the regional council and adjacent local authorities; and

(d) for a change to, or variation of, a policy statement or regional plan, the constituent territorial authorities and adjacent regional councils; and

(e) tangata whenua of the area, through iwi authorities.

(9) If limited notification is given in relation to a proposed change under this clause, the local authority must make the change or variation publicly available in the central public library of the relevant district or region, and may also make it available in any other place that it considers appropriate.

(10) The obligations on the local authority under subclause (4) are in addition to those under section 35 (which relates to the keeping of records).

Schedule 1 clause 5A: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 6 Making of submissions under clause 5

(1) Once a proposed policy statement or plan is publicly notified under clause 5, the persons described in subclauses (2) to (4) may make a submission on it to the relevant local authority.

(2) The local authority in its own area may make a submission.

(3) Any other person may make a submission but, if the person could gain an advantage in trade competition through the submission, the person's right to make a submission is limited by subclause (4).

(4) A person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(5) A submission must be in the prescribed form.

Schedule 1 clause 6: replaced, on 1 October 2009, by section 149(8) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 6 heading: amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 6A Making of submissions under clause 5A

(1) If limited notification is given under clause 5A on a proposed change to a policy statement or plan, the only persons who may make submissions or further submissions on the proposed change are—

(a) the persons given limited notification under clause 5A(3); and

(b) the persons provided with a copy of the proposed change under clause 5A(8).

(2) However, if a person with a right to make a submission could gain an advantage in trade competition through making a submission, that person may make a submission only if directly affected by an effect of the proposed change that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(3) The local authority in its own area may make a submission.

(4) Submissions must be made in the prescribed form.

Schedule 1 clause 6A: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 7 Public notice of submissions

(1) A local authority must give public notice of—

(a) the availability of a summary of decisions requested by persons making submissions on a proposed policy statement or plan; and

(b) where the summary of decisions and the submissions can be inspected; and

(c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in clause 8(1) may make a further submission on the proposed policy statement or plan; and

(d) the date of the last day for making further submissions (as calculated under paragraph (c)); and

(e) the limitations on the content and form of a further submission.

(2) The local authority must serve a copy of the public notice on all persons who made submissions.

(3) However, in the case of a submission on a proposed change to a policy statement or plan, if a local authority has given limited notification under clause 5A, it must give notice of the matters listed in subclause (1), as relevant, instead of giving public notice, to—

(a) the persons given limited notification under clause 5A(3); and

(b) the persons provided with a copy of the proposed change under clause 5A(8).

Schedule 1 clause 7: replaced, on 1 October 2009, by section 149(8) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 7(3): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 8 Certain persons may make further submissions

(1) The following persons may make a further submission, in the prescribed form, on a proposed policy statement or plan to the relevant local authority:

(a) any person representing a relevant aspect of the public interest; and

(b) any person that has an interest in the proposed policy statement or plan greater than the interest that the general public has; and

(c) the local authority itself.

(1A) However, in the case of submissions on a proposed change to a policy statement or plan for which limited notification has been given under clause 5A, the only persons (in addition to the relevant local authority) who may make a further submission are—

(a) the persons given limited notification under clause 5A(3); and

(b) the persons given a copy of the proposed change under clause 5A(8).

(2) A further submission given under subclause (1) or (1A) must be limited to a matter in support of or in opposition to the relevant submission made under clause 6 or 6A.

Schedule 1 clause 8: replaced, on 1 October 2009, by section 149(8) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 8(1A): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 8(1A): amended, on 24 October 2019, by section 131 of the Statutes Amendment Act 2019 (2019 No 56).

Schedule 1 clause 8(2): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 8A Service of further submissions

(1) A person who makes a further submission under clause 8(1) or (1A) must serve a copy of it on—

(a) the relevant local authority; and

(b) the person who made the submission under clause 6 or 6A to which the further submission relates.

(2) The further submission must be served on the person referred to in subclause (1)(b) not later than 5 working days after the day on which the person provides the relevant local authority with the further submission.

Schedule 1 clause 8A: replaced, on 1 October 2009, by section 149(8) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 8A(1): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 8A(1)(b): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 8AA Resolution of disputes

(1) For the purpose of clarifying or facilitating the resolution of any matter relating to a proposed policy statement or plan, a local authority may, if requested or on its own initiative, invite anyone who has made a submission on the proposed policy statement or plan to meet with the local authority or such other person as the local authority thinks appropriate.

(2) A member of the local authority who attends a meeting under subclause (1) is not disqualified from participating in a decision made under clause 10.

(3) The local authority may, with the consent of the parties, refer to mediation the issues raised by persons who have made submissions on the proposed plan or policy statement.

(4) Mediation under subclause (3) must be conducted by an independent mediator.

(5) The chairperson of the meeting must, as soon as practicable after the end of the meeting, prepare a report that—

(a) must identify the matters that are agreed between the local authority and the submitters and those that are not; and

(b) may identify—

(i) the nature of the evidence that must be called at the hearing by the persons who made submissions:

(ii) the order in which that evidence is to be heard:

(iii) a proposed timetable for the hearing; but

(c) does not include evidence that was presented at the meeting on a without prejudice basis.

(6) The person who prepared the report must give the report to those persons who attended the meeting and the local authority not later than 5 working days before the hearing.

(7) The local authority must have regard to the report in making its decision under clause 10.

Schedule 1 clause 8AA: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 8B Hearing by local authority

A local authority shall hold a hearing into submissions on its proposed policy statement or plan, and any requirements notified under clause 4, and give at least 10 working days notice of the dates, times, and place of the hearings to—

(a) every person who made a submission or further submission, and who requested to be heard (and has not since withdrawn that request); and

(b) in the case of a district plan, every authority which made a requirement under clause 4.

Schedule 1 clause 8B: inserted, on 7 July 1993, by section 212 of the Resource Management Amendment Act 1993 (1993 No 65).

### 8C Hearing not needed

Where submissions are made but no person indicates they wish to be heard, or the request to be heard is withdrawn, the local authority shall consider the submissions along with the other relevant matters, but shall not be required to hold a hearing.

Schedule 1 clause 8C: inserted, on 7 July 1993, by section 212 of the Resource Management Amendment Act 1993 (1993 No 65).

### 8D Withdrawal of proposed policy statements and plans

(1) Where a local authority has initiated the preparation of a policy statement or plan, the local authority may withdraw its proposal to prepare, change, or vary the policy statement or plan at any time—

(a) if an appeal has not been made to the Environment Court under clause 14, or the appeal has been withdrawn, before the policy statement or plan is approved by the local authority; or

(b) if an appeal has been made to the Environment Court, before the Environment Court hearing commences.

(2) The local authority shall give public notice of any withdrawal under subclause (1), including the reasons for the withdrawal.

Schedule 1 clause 8D: inserted, on 7 July 1993, by section 212 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 8D(1)(a): replaced, on 1 August 2003, by section 92(2) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 8D(1)(b): replaced, on 1 August 2003, by section 92(2) of the Resource Management Amendment Act 2003 (2003 No 23).

### 9 Recommendations and decisions on requirements

(1) The territorial authority shall make and notify its recommendation in respect of any provision included in the proposed district plan under clause 4(5) to the appropriate authority in accordance with section 171 or section 191.

(2) The territorial authority shall make its decision on provisions included in the proposed district plan under clause 4(6) in accordance with section 168A(3) or section 189A(3), as the case may be.

(3) Nothing in this clause shall allow the territorial authority to make a recommendation or decision in respect of any existing designations or heritage orders that are included without modification and on which no submissions are received.

Schedule 1 clause 9: replaced, on 7 July 1993, by section 213 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 9(3): amended, on 1 August 2003, by section 92(3) of the Resource Management Amendment Act 2003 (2003 No 23).

### 10 Decisions on provisions and matters raised in submissions

(1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.

(2) The decision—

(a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—

(i) the provisions of the proposed statement or plan to which they relate; or

(ii) the matters to which they relate; and

(ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with section 32AA; and

(b) may include—

(i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and

(ii) any other matter relevant to the proposed statement or plan arising from the submissions.

(3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.

(4) The local authority must—

(aaa) have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and

(a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and

(b) publicly notify the decision within the same time.

(5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.

Schedule 1 clause 10: replaced, on 1 October 2009, by section 149(9) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 10(2)(ab): inserted, on 3 December 2013, for all purposes, by section 84(1) of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 1 clause 10(4)(aaa): inserted, on 3 December 2013, for all purposes, by section 84(2) of the Resource Management Amendment Act 2013 (2013 No 63).

### 10A Application to Minister for extension of time

(1) A local authority must, before the time for making its decision under clause 10, apply to the Minister for an extension of the time for giving a decision under that clause if the local authority is unable, or is likely to be unable, to meet the requirement of clause 10(4)(a) (under which decisions must be given within 2 years of notification of a proposed policy statement or plan).

(2) An application under subclause (1) must be in writing, and must set out—

(a) the reasons for the request for an extension; and

(b) the duration of the extension required.

(3) Before applying for an extension, a local authority must take into account—

(a) the interests of any person who, in its opinion, may be directly affected by an extension; and

(b) the interests of the community in achieving adequate assessment of the effects of the proposed policy statement or plan or change to a policy statement or plan; and

(c) its duty under section 21 to avoid unreasonable delay.

(4) The Minister—

(a) may decline or agree to an extension applied for under subclause (1); but

(b) in the case of a regional coastal plan, must consider the views of the Minister of Conservation before granting an extension.

(5) The Minister must serve notice of his or her decision on the local authority.

(6) If the Minister grants an extension, the local authority must give public notice of that extension.

(7) This clause applies instead of section 37 if the time limit prescribed by clause 10(4)(a) is to be extended.

Schedule 1 clause 10A: inserted, on 18 October 2017, by section 174(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 11 Notification of decision

(1) At the same time as a local authority publicly notifies a decision under clause 10(4)(b), it must serve, on every person who made a submission on the proposed policy statement or plan concerned,—

(a) a copy of the public notice; and

(b) a statement of the time within which an appeal may be lodged by the person.

(2) Where a decision has been made under clause 9(2), the territorial authority, at the same time as it publicly notifies a decision under clause 10(4)(b), must serve a copy of the public notice on landowners and occupiers who, in the territorial authority's opinion, are directly affected by the decision.

(3) If the local authority serves or provides a copy of the public notice under subclause (1) or (2), it must—

(a) make a copy of the decision available (whether physically or by electronic means) at all its offices, and all public libraries in the district (if it relates to a district plan) or region (in all other cases); and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

Schedule 1 clause 11: replaced, on 7 July 1993, by section 214(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 11(1): replaced, on 1 October 2009, by section 149(10) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 11(2): replaced, on 1 October 2009, by section 149(10) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 11(3): inserted, on 1 August 2003, by section 92(6) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 11(3): amended, on 1 October 2009, by section 149(11) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 12 Record of effect of decisions on provisions other than requirements

*[Repealed]*

Schedule 1 clause 12: repealed, on 7 July 1993, by section 214(1) of the Resource Management Amendment Act 1993 (1993 No 65).

### 13 Decision of requiring authority or heritage protection authority

(1) A requiring authority or heritage protection authority shall notify the territorial authority whether it accepts or rejects its recommendation in whole or in part within 30 working days after the day on which the territorial authority notifies its recommendation under clause 9.

(2) A requiring authority and a heritage protection authority may modify a requirement if, and only if, that modification is recommended by the territorial authority, or it is not inconsistent with the requirement as notified.

(3) The territorial authority shall alter the proposed district plan to show the modification or delete the requirement in accordance with the requiring authority's or heritage protection authority's notice.

(4) The territorial authority shall ensure a notice of decision by the requiring authority or heritage protection authority and a statement of the time within which an appeal may be lodged is served on every person who made a submission on the requirement, and on the land owners and occupiers who are directly affected by the decision, within 15 working days of the territorial authority receiving the decision.

(5) *[Repealed]*

(6) If a notice summarising a decision is served, the territorial authority must—

(a) make a copy of the decision available (whether physically or by electronic means) at all its offices, and all public libraries in the district; and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send, or provide, on request, a copy of the decision within 3 working days after the request is received.

Schedule 1 clause 13(1): amended, on 7 July 1993, by section 214(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 13(4): replaced, on 7 July 1993, by section 214(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 13(4): amended, on 1 August 2003, by section 92(7) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 13(5): repealed, on 7 July 1993, by section 214(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 13(6): inserted, on 1 August 2003, by section 92(8) of the Resource Management Amendment Act 2003 (2003 No 23).

### 14 Appeals to Environment Court

(1) A person who made a submission on a proposed policy statement or plan may appeal to the Environment Court in respect of—

(a) a provision included in the proposed policy statement or plan; or

(b) a provision that the decision on submissions proposes to include in the policy statement or plan; or

(c) a matter excluded from the proposed policy statement or plan; or

(d) a provision that the decision on submissions proposes to exclude from the policy statement or plan.

(2) However, a person may appeal under subclause (1) only if—

(a) the person referred to the provision or the matter in the person's submission on the proposed policy statement or plan; and

(b) the appeal does not seek the withdrawal of the proposed policy statement or plan as a whole.

(2A) For the purposes of subclause (2)(b), **proposed plan** does not include a variation or a change.

(3) The following persons may appeal to the Environment Court against any aspect of a requiring authority's or heritage protection authority's decision:

(a) any person who made a submission on the requirement that referred to that matter:

(b) the territorial authority.

(4) Any appeal to the Environment Court under this clause must be in the prescribed form and lodged with the Environment Court within 30 working days

of service of the notice of decision of the local authority under clause 11 or service of the notice of decision of the requiring authority or heritage protection authority under clause 13, as the case may be.

(5) The appellant must serve a copy of the notice in the prescribed manner.

Schedule 1 clause 14: replaced, on 1 August 2003, by section 92(9) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 14(2): replaced, on 1 October 2009, by section 149(12) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 14(2A): inserted, on 1 October 2009, by section 149(12) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 15 Hearing by the Environment Court

(1) The Environment Court shall hold a public hearing into any provision or matter referred to it.

(2) If the Environment Court, in a hearing into any provision of a proposed policy statement or plan (other than a proposed regional coastal plan), directs a local authority under section 293(1), the local authority must comply with the court's directions.

(3) Where the court hears an appeal against a provision of a proposed regional coastal plan, that appeal is an inquiry and the court—

(a) shall report its findings to the appellant, the local authority concerned, and the Minister of Conservation; and

(b) may include a direction given under section 293(1) to the regional council to make modifications to, deletions from, or additions to, the proposed regional coastal plan.

Schedule 1 clause 15 heading: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 15(1): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 15(2): replaced, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 15(3): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 15(3): amended, on 1 August 2003, by section 92(11) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 15(3): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 15(3)(a): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 15(3)(b): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 16 Amendment of proposed policy statement or plan

(1) A local authority must, without using the process in this schedule, make an amendment to its proposed policy statement or plan that is required by section 55(2) or by a direction of the Environment Court under section 293.

(2) A local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.

(3) *[Repealed]*

Schedule 1 clause 16: replaced, on 7 July 1993, by section 215 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 16(1): replaced, on 1 October 2009, by section 149(13) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 16(2): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 16(3): repealed, on 1 October 2009, by section 149(14) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 16A Variation of proposed policy statement or plan

(1) A local authority may initiate variations (being alterations other than those under clause 16) to a proposed policy statement or plan, or to a change, at any time before the approval of the policy statement or plan.

(2) The provisions of this schedule, with all necessary modifications, shall apply to every variation as if it were a change.

Schedule 1 clause 16A: inserted, on 7 July 1993, by section 215 of the Resource Management Amendment Act 1993 (1993 No 65).

### 16B Merger with proposed policy statement or plan

(1) Every variation initiated under clause 16A shall be merged in and become part of the proposed policy statement or plan as soon as the variation and the proposed policy statement or plan are both at the same procedural stage; but where the variation includes a provision to be substituted for a provision in the proposed policy statement or plan against which a submission or an appeal has been lodged, that submission or appeal shall be deemed to be a submission or appeal against the variation.

(2) From the date of notification of a variation, the proposed policy statement or proposed plan shall have effect as if it had been so varied.

(3) Subclause (2) does not apply to a proposed policy statement or plan approved under clause 17(1A).

Schedule 1 clause 16B: inserted, on 7 July 1993, by section 215 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 16B(2): inserted, on 2 September 1996, by section 27 of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 16B(2): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 16B(3): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

## 17 Final consideration of policy statements and plans other than regional coastal plans

(1) A local authority shall approve a proposed policy statement or plan (other than a regional coastal plan) once it has made amendments under clause 16 or variations under clause 16A (if any).

(1A) However, a local authority may approve a proposed policy statement or plan (other than a regional coastal plan) in respect of which it has initiated a variation.

(1B) A variation to a proposed policy statement or plan approved under subclause (1A) must be treated as if it were a change to the policy statement or plan unless the variation has merged in and become part of the proposed policy statement or plan under clause 16B(1).

(2) A local authority may approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.

(3) Every approval under this clause shall be effected by affixing the seal of the local authority to the proposed policy statement or plan.

(4) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before approval, to Kāinga Ora–Homes and Communities, in certain circumstances).

Schedule 1 clause 17(1): amended, on 7 July 1993, by section 216(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 17(1A): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 17(1B): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 17(2): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 17(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 17(3): replaced, on 7 July 1993, by section 216(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 17(4): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

## 18 Consideration of a regional coastal plan by regional council

(1) A regional council shall adopt a proposed regional coastal plan for reference to the Minister of Conservation once it has made amendments under clause 16 or variations under clause 16A (if any).

(2) Every adoption of a proposed regional coastal plan under this clause shall be effected by affixing the seal of the regional council to the proposed regional coastal plan.

(3) As soon as practicable after a regional council adopts a proposed regional coastal plan it shall send the plan to the Minister of Conservation for his or her approval.

(4) A regional council may adopt part of a proposed regional coastal plan if all submissions or inquiries relating to that part have been disposed of.

(5) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before adopting them, to Kāinga Ora–Homes and Communities, in certain circumstances).

Schedule 1 clause 18(1): amended, on 7 July 1993, by section 217(1) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 18(2): replaced, on 7 July 1993, by section 217(2) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 18(3): amended, on 7 July 1993, by section 217(3) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 18(4): inserted, on 7 July 1993, by section 217(4) of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 18(5): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

### 19 Ministerial approval of regional coastal plan

(1) Prior to his or her approval of a regional coastal plan, the Minister of Conservation may require the regional council to make any amendments to the plan specified by that Minister.

(2) The Minister of Conservation may not require a regional council to make an amendment to a regional coastal plan that is in conflict or inconsistent with any direction of the Environment Court, unless the Minister made a submission on the provision concerned when the provision was referred to the court.

(3) When the Minister of Conservation requires a regional council to make changes under subclause (1), the Minister shall give reasons.

(3A) If all submissions or inquiries relating to part of a regional coastal plan have been disposed of, the Minister of Conservation may approve that part.

(4) Every approval of a regional coastal plan under this clause shall be effected by the Minister of Conservation signing the regional coastal plan.

Schedule 1 clause 19(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 19(3A): inserted, on 7 July 1993, by section 218 of the Resource Management Amendment Act 1993 (1993 No 65).

### 20 Operative date

(1) Subject to subclause (2), an approved policy statement or plan shall become an operative policy statement or plan on a date which is to be publicly notified.

(2) The local authority shall publicly notify the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.

(3) *[Repealed]*

(4) The local authority shall provide 1 copy of its operative policy statement or plan without charge to—

(a) the Minister for the Environment; and

(b) *[Repealed]*

(c) in the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and

(d) in the case of a district plan, the regional council and adjacent territorial authorities; and

(e) in the case of a policy statement or regional plan, constituent territorial authorities and adjacent regional councils; and

(f) the tangata whenua of the area, through iwi authorities.

(g) *[Repealed]*

(5) The local authority shall provide 1 copy of its operative policy statement or plan to every public library in its area.

(6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).

Schedule 1 clause 20(1): replaced, on 7 July 1993, by section 219 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 20(2): replaced, on 7 July 1993, by section 219 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 20(3): repealed, on 7 July 1993, by section 219 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 20(4)(b): repealed, on 1 October 2009, by section 149(15) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 20(4)(f): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Schedule 1 clause 20(4)(f): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 20(4)(g): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

### 20A Correction of operative policy statement or plan

A local authority may amend, without using the process in this schedule, an operative policy statement or plan to correct any minor errors.

Schedule 1 clause 20A: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 20A: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

# Part 2
# Requests for changes to policy statements and plans of local authorities and requests to prepare regional plans

Schedule 1 Part 2: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

## 21 Requests

(1) Any person may request a change to a district plan or a regional plan (including a regional coastal plan).

(2) Any person may request the preparation of a regional plan, other than a regional coastal plan.

(3) Any Minister of the Crown or any territorial authority in the region may request a change to a policy statement.

(3A) *[Repealed]*

(4) Where a local authority proposes to prepare or change its policy statement or plan, the provisions of this Part shall not apply and the procedure set out in Part 1, 4, or 5 applies.

(5) If a request for a plan change is made jointly with an application to exchange recreation reserve land (as permitted by section 65(4A) or 73(2A)), the application must be—

(a) processed, with the request for a plan change, in accordance with this Part, other than clauses 27 and 29(4) to (8); then

(b) decided under section 15AA of the Reserves Act 1977.

Schedule 1 clause 21: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 21(3): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 21(3A): repealed, on 1 July 2020, by section 103(1) of the Resource Management Amendment Act 2020 (2020 No 30).

Schedule 1 clause 21(4): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 21(5): inserted, on 19 April 2017, by section 188(11) of the Resource Legislation Amendment Act 2017 (2017 No 15).

## 22 Form of request

(1) A request made under clause 21 shall be made to the appropriate local authority in writing and shall explain the purpose of, and reasons for, the proposed plan or change to a policy statement or plan and contain an evaluation report prepared in accordance with section 32 for the proposed plan or change.

(2) Where environmental effects are anticipated, the request shall describe those effects, taking into account clauses 6 and 7 of Schedule 4, in such detail as corresponds with the scale and significance of the actual or potential environmen-

tal effects anticipated from the implementation of the change, policy statement, or plan.

Schedule 1 clause 22: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 22(1): amended, on 3 December 2013, for all purposes, by section 85 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 1 clause 22(1): amended, on 1 August 2003, by section 92(13) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 22(2): amended, on 3 March 2015, by section 124 of the Resource Management Amendment Act 2013 (2013 No 63).

### 23 Further information may be required

(1) Where a local authority receives a request from any person under clause 21, it may within 20 working days, by written notice, require that person to provide further information necessary to enable the local authority to better understand—

(a) the nature of the request in respect of the effect it will have on the environment, including taking into account the provisions of Schedule 4; or

(b) the ways in which any adverse effects may be mitigated; or

(c) the benefits and costs, the efficiency and effectiveness, and any possible alternatives to the request; or

(d) the nature of any consultation undertaken or required to be undertaken—

if such information is appropriate to the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change or plan.

(2) A local authority, within 15 working days of receiving any information under this clause, may require additional information relating to the request.

(3) A local authority may, within 20 working days of receiving a request under clause 21, or, if further or additional information is sought under subclause (1) or subclause (2), within 15 working days of receiving that information, commission a report in relation to the request and shall notify the person who made the request that such a report has been commissioned.

(4) A local authority must specify in writing its reasons for requiring further or additional information or for commissioning a report under this clause.

(5) The person who made the request—

(a) may decline, in writing, to provide the further or additional information or to agree to the commissioning of a report; and

(b) may require the local authority to proceed with considering the request.

(6) To avoid doubt, if the person who made the request declines under subclause (5) to provide the further or additional information, the local authority may at any time reject the request or decide not to approve the plan change requested,

if it considers that it has insufficient information to enable it to consider or approve the request.

Schedule 1 clause 23: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 23(4): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 23(5): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 23(6): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 24 Modification of request

As a result of further or additional information, commissioned reports, or other relevant matters, the local authority may, with the agreement of the person who made the request, modify the request.

Schedule 1 clause 24: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

### 25 Local authority to consider request

(1) A local authority shall, within 30 working days of—

(a) receiving a request under clause 21; or

(b) receiving all required information or any report which was commissioned under clause 23; or

(c) modifying the request under clause 24—

whichever is the latest, decide under which of subclauses (2), (3), and (4), or a combination of subclauses (2) and (4), the request shall be dealt with.

(1A) The local authority must have particular regard to the evaluation report prepared for the proposed plan or change in accordance with clause 22(1)—

(a) when making a decision under subclause (1); and

(b) when dealing with the request under subclause (2), (3), or (4).

(2) The local authority may either—

(a) adopt the request, or part of the request, as if it were a proposed policy statement or plan made by the local authority itself and, if it does so,—

(i) the request must be notified in accordance with clause 5 or 5A within 4 months of the local authority adopting the request; and

(ii) the provisions of Part 1 or 4 must apply; and

(iii) the request has legal effect once publicly notified; or

(b) accept the request, in whole or in part, and proceed to notify the request, or part of the request, under clause 26.

(2AA) However, if a direction is applied for under section 80C, the period between the date of that application and the date when the application is declined under

clause 77(1) must not be included in the calculation of the 4-month period specified by subclause (2)(a)(i).

(2A) Subclause (2)(a)(iii) is subject to section 86B.

(3) The local authority may decide to deal with the request as if it were an application for a resource consent and the provisions of Part 6 shall apply accordingly.

(4) The local authority may reject the request in whole or in part, but only on the grounds that—

(a) the request or part of the request is frivolous or vexatious; or

(b) within the last 2 years, the substance of the request or part of the request—

(i) has been considered and given effect to, or rejected by, the local authority or the Environment Court; or

(ii) has been given effect to by regulations made under section 360A; or

(c) the request or part of the request is not in accordance with sound resource management practice; or

(d) the request or part of the request would make the policy statement or plan inconsistent with Part 5; or

(e) in the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.

(4A) A specified territorial authority must not accept or adopt a request if it does not incorporate the MDRS as required by section 77G(1).

(5) The local authority shall notify the person who made the request, within 10 working days, of its decision under this clause, and the reasons for that decision, including the decision on notification.

Schedule 1 clause 25: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 25(1A): inserted, on 3 December 2013, for all purposes, by section 86 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 1 clause 25(2): replaced, on 17 December 1997, by section 72 of the Resource Management Amendment Act 1997 (1997 No 104).

Schedule 1 clause 25(2)(a)(i): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 25(2)(a)(ii): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 25(2)(a)(iii): amended, on 1 October 2009, by section 149(16) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 25(2AA): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 25(2A): inserted, on 1 October 2009, by section 149(17) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 25(4)(b): replaced, on 1 October 2011, by section 60 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Schedule 1 clause 25(4A): inserted, on 21 December 2021, by section 15 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Schedule 1 clause 25(5): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 26 Notification timeframes

(1) Where a local authority accepts the request or part of the request under clause 25(2)(b)—

(a) the local authority shall prepare the change to the policy statement or plan in consultation with the person who made the request under clause 21; and

(b) the local authority shall notify the change or the proposed policy statement or plan—

(i) within 4 months of agreeing to accept the request; or

(ii) within the period that the Environment Court directs under clause 27.

(2) However, if a direction is applied for under section 80C, the period between the date of that application and the date when the application is declined under clause 77(1) must not be included in the calculation of the 4-month period specified in subclause (1)(b)(i).

Schedule 1 clause 26: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 26(1)(b): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 26(1)(b)(i): amended, on 17 December 1997, by section 73 of the Resource Management Amendment Act 1997 (1997 No 104).

Schedule 1 clause 26(1)(b)(ii): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 26(2): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 26A Mana Whakahono a Rohe

In exercising or performing any powers, functions, or duties under this Part, a local authority must comply with any Mana Whakahono a Rohe that specifically provides a role for iwi authorities in relation to any plan or change requested under this Part.

Schedule 1 clause 26A: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 27 Appeals

(1) A person who requests a plan change under clause 21 may appeal to the Environment Court against a decision referred to in subclause (1A) within 15 working days of receiving the decision.

(1A) The decisions that may be appealed under subclause (1) are decisions—

(a) to adopt or accept the request in part only under clause 25(2):

(b) to reject the request under clause 23(6):

(c) to deal with the request under clause 25(3):

(d) to reject the request under clause 25(4) in whole or in part.

(2) The Environment Court may make such decision on any such appeal as it thinks fit.

Schedule 1 clause 27: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 27(1): replaced, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 27(1A): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 27(2): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

### 28 Withdrawal of requests

(1) Where any person has made a request under clause 21 that person may withdraw the request at any time before the decision by the local authority under clause 29 is notified.

(2) Where any local authority has reasonable grounds to consider that a person who made a request under clause 21 no longer wishes to continue with the request, the local authority may send a notice to that person at their last known address.

(3) A notice sent under subclause (2) shall state that if the person who made the request does not advise the local authority within 30 working days of their wish to continue with the request, the local authority shall deem the request to have been withdrawn.

(4) If the local authority receives no response to its notice sent under subclause (2), it shall deem the request to have been withdrawn under subclause (1).

(5) Where notice of withdrawal is given under subclause (1) or is deemed to be given under subclause (4), preparation of the policy statement or plan or change shall cease, unless the local authority determines to proceed with the request itself under this Part.

(6) The local authority shall ensure that, within 15 working days of receiving a notice of withdrawal under subclause (1) or deeming it to be withdrawn under subclause (4), public notice of the withdrawal, including the reason for the withdrawal, is given, unless the local authority determines to proceed with the request itself.

Schedule 1 clause 28: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

### 29 Procedure under this Part

(1) Except as provided in subclauses (1A) to (9), Part 1, with all necessary modifications, shall apply to any plan or change requested under this Part and accepted under clause 25(2)(b).

(1A) Any person may make a submission but, if the person is a trade competitor of the person who made the request, the person's right to make a submission is limited by subclause (1B).

(1B) A trade competitor of the person who made the request may make a submission only if directly affected by an effect of the plan or change that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(2) The local authority shall send copies of all submissions on the plan or change to the person who made the request.

(3) The person who made the request has the right to appear before the local authority under clause 8B.

(4) After considering a plan or change, undertaking a further evaluation of the plan or change in accordance with section 32AA, and having particular regard to that evaluation, the local authority—

(a) may decline, approve, or approve with modifications the plan or change; and

(b) must give reasons for its decision.

(5) In addition to those persons covered by clause 11, the local authority shall serve a copy of its decision on the person who made the request under clause 21.

(6) The person who made the request, and any person who made submissions on the plan or change, may appeal the decision of the local authority to the Environment Court.

(7) Where a plan or change has been appealed to the Environment Court, clauses 14 and 15 shall apply, with all necessary modifications.

(8) Where a plan or change has been appealed to the Environment Court, the person who made the request under clause 21 has the right to appear before the Environment Court.

(8A) If the decision to change a plan is subject to the grant of an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977, the local authority must advise the person who requested the plan change that—

(a) the plan change is subject to a decision by the administering body on the application to exchange the recreation reserve land; and

(b) the decision on the exchange will be made under the Reserves Act 1977 after the time allowed for appeals against the decision on the plan change has expired and any appeals have been completed.

(9) With the agreement of the person who made the request, the local authority may, at any time before its decision on the plan or change, initiate a variation under clause 16A.

Schedule 1 clause 29: inserted, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 29(1): amended, on 1 October 2009, by section 149(18) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 29(1A): inserted, on 1 October 2009, by section 149(19) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 29(1B): inserted, on 1 October 2009, by section 149(19) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 29(4): replaced, on 3 December 2013, for all purposes, by section 87 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 1 clause 29(6): amended, on 1 August 2003, by section 92(14)(a) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 29(6): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 29(7): amended, on 1 August 2003, by section 92(14)(b) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 29(7): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 29(8): amended, on 1 August 2003, by section 92(14)(c) of the Resource Management Amendment Act 2003 (2003 No 23).

Schedule 1 clause 29(8): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 29(8A): inserted, on 19 April 2017, by section 188(12) of the Resource Legislation Amendment Act 2017 (2017 No 15).

# Part 3
# Incorporation of documents by reference in plans and proposed plans

Schedule 1 Part 3: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

## 30 Incorporation of documents by reference in plans and proposed plans

(1) The following written material may be incorporated by reference in a plan or proposed plan:

(a) standards, requirements, or recommended practices of international or national organisations:

(b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:

(c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan or proposed plan.

(2) Material may be incorporated by reference in a plan or proposed plan—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the plan or proposed plan.

(3) Material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan.

Schedule 1 clause 30: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 31 Effect of amendments to, or replacement of, material incorporated by reference in plans and proposed plans

An amendment to, or replacement of, material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan only if—

(a) a variation that has merged in and become part of the proposed plan under Part 1, 4, or 5 states that the amendment or replacement has that effect; or

(b) an approved change made to the plan under Part 1, 4, or 5 states that the amendment or replacement has that effect.

Schedule 1 clause 31: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 31(a): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 31(b): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 32 Proof of material incorporated by reference

(1) A copy of material incorporated by reference in a plan or proposed plan, including any amendment to, or replacement of, the material (**material**), must be—

(a) certified as a correct copy of the material by the local authority; and

(b) retained by the local authority.

(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the plan or proposed plan of the material.

Schedule 1 clause 32: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 33 Effect of expiry of material incorporated by reference

Material incorporated by reference in a plan or proposed plan that expires or that is revoked or that ceases to have effect ceases to have legal effect as part of the plan or proposed plan only if—

(a) a variation that has merged in and become part of the proposed plan under Part 1, 4, or 5 states that the material ceases to have effect; or

(b) a change to the plan made and approved under Part 1, 4, or 5 states that the material ceases to have effect.

Schedule 1 clause 33: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 33(a): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 33(b): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 34 Consultation on proposal to incorporate material by reference

(1) This clause applies to a proposed plan, a variation of a proposed plan, or a change to a plan—

(a) that incorporates material by reference:

(b) that states that an amendment to, or replacement of, material incorporated by reference in the proposed plan or plan has legal effect as part of the plan.

(2) Before a local authority publicly notifies a proposed plan, a variation of a proposed plan, or a change to a plan under clause 5, the local authority must—

(a) make copies of the material proposed to be incorporated by reference or the proposed amendment to, or replacement of, material incorporated by reference (**proposed material**) available for inspection during working hours for a reasonable period at the offices of the local authority; and

(b) make copies of the proposed material available for purchase in accordance with section 36 at the offices of the local authority; and

(c) give public notice stating that—

(i) the proposed material is available for inspection during working hours, the place at which it can be inspected, and the period during which it can be inspected; and

(ii) copies of the proposed material can be purchased and the place at which they can be purchased; and

(iii) if copies of the material are available under subclause (3), details of how and where it may be obtained or accessed; and

(d) allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference; and

(e) consider any comments they make.

(3) In addition to the requirements under subclause (2), the local authority may make copies of the proposed material available in any way that the chief executive of the local authority considers appropriate in the circumstances (for example, on an Internet website maintained by or on behalf of the local authority).

(4) The reference in subclause (2) or subclause (3) to the proposed material includes, if the material is not in an official New Zealand language, an accurate translation in an official New Zealand language of the material.

(5) A failure to comply with this clause does not invalidate a plan or proposed plan that incorporates material by reference.

Schedule 1 clause 34: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

### 35 Access to material incorporated by reference

(1) The local authority—

(a) must make the material referred to in subclause (2) (**material**) available for inspection during working hours at the offices of the local authority; and

(b) must make copies of the material available for purchase in accordance with section 36 at the offices of the local authority; and

(c) may make copies of the material available in any other way that the chief executive of the local authority considers appropriate in the circumstances (for example, on an Internet website maintained by or on behalf of the local authority); and

(d) must give public notice stating that—

(i) the material is incorporated in the plan or proposed plan; and

(ii) the material is available for inspection during working hours free of charge and the place at which it can be inspected; and

(iii) copies of the material can be purchased and the place at which they can be purchased; and

(iv) if copies of the material are available under paragraph (c), details of how and where it may be obtained or accessed.

(2) The material referred to in subclause (1) is—

(a) material incorporated by reference in a plan or proposed plan:

(b) any amendment to, or replacement of, that material that is incorporated in the plan or proposed plan or the material referred to in paragraph (a) with the amendments or replacement material incorporated:

(c) if the material referred to in paragraph (a) or paragraph (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.

Schedule 1 clause 35: inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

# Part 4
# Freshwater planning process

Schedule 1 Part 4: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## 36 Interpretation

In this Part,—

**hearings** means any hearing or part of a hearing of submissions on a freshwater planning instrument conducted by a freshwater hearings panel

**relevant regional council** means the regional council responsible for a freshwater planning instrument.

Schedule 1 clause 36: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## Subpart 1—Freshwater planning process

Schedule 1 Subpart 1 heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### *Commencement of freshwater planning process*

Heading: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## 37 Regional council must submit freshwater planning documents and give nominations to Chief Freshwater Commissioner

(1) A regional council must, no later than 6 months after it has publicly notified a freshwater planning instrument, submit the following documents to the Chief Freshwater Commissioner:

(a) the freshwater planning instrument that was publicly notified:

(b) any variation made to the freshwater planning instrument under clause 16A:

(c) the regional council's evaluation report prepared under section 32:

(d) the submissions on the freshwater planning instrument received by the closing date for submissions:

(e) the regional council's summary of the decisions requested by submitters:

(f) any further submissions on the freshwater planning instrument received by the closing date for further submissions:

(g) any submissions received after the closing date for submissions or further submissions:

(h) any information about when the submissions described in paragraph (g) were received:

(i) the planning documents that are recognised by an iwi authority and lodged with the regional council:

(j) any documentation relevant to any obligations arising under any relevant iwi participation legislation, joint management agreement, or Mana Whakahono a Rohe:

(k) any other relevant information.

(2) A regional council must, at least 20 working days before it submits the documents under subclause (1), provide the Chief Freshwater Commissioner in writing with—

(a) a notice of its intention to submit those documents to the Chief Freshwater Commissioner; and

(b) nominations for appointments to the freshwater hearings panel that are required by clause 59(1)(b) and (c).

Schedule 1 clause 37: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 38 Chief Freshwater Commissioner must convene freshwater hearings panel

As soon as practicable after receiving the documents described in clause 37(1), the Chief Freshwater Commissioner must, in accordance with clause 59, convene a freshwater hearings panel for the freshwater planning instrument to which those documents relate.

Schedule 1 clause 38: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Hearing of submissions on freshwater planning instrument*

Heading: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 39 Functions of freshwater hearings panel

The functions of every freshwater hearings panel are—

(a) to conduct a hearing of submissions on a freshwater planning instrument referred to it by the Chief Freshwater Commissioner; and

(b) to make recommendations, after the hearing of submissions is concluded, to the relevant regional council; and

(c) to hear any objections made in accordance with clause 40(2).

Schedule 1 clause 39: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 40 Powers of freshwater hearings panel

(1) A freshwater hearings panel has the same duties and powers as a local authority under the following provisions to the extent applicable:

(a) section 39 (which provides for how hearings are to be conducted), except section 39(2)(c) and (d):

(b) section 39C (which sets out the effect of a lack of accreditation):

(c) section 40 (which provides for the persons who may be heard at a hearing):

(d) section 41 (which provides for the application of certain provisions of the Commissions of Inquiry Act 1908):

(e) section 41A (which relates to the control of hearings):

(f) section 41B (which provides for the giving of directions as to the time for providing evidence in relation to a hearing):

(g) section 41C (which sets out the directions and requests that may be given before or at a hearing), except section 41C(4):

(h) section 41D (which provides for submissions to be struck out before or at a hearing):

(i) section 42 (which provides for the protection of sensitive information):

(j) section 42A (which provides for the ability to commission hearing reports).

(2) If a freshwater hearings panel exercises a power under section 41D,—

(a) a person whose submission is struck out has a right of objection under section 357 as if the references in that section to an authority were a reference to a freshwater hearings panel; and

(b) sections 357C, 357D, and 358 apply to the freshwater hearings panel as the body to which an objection is made under section 357.

(3) A freshwater hearings panel may decide to accept or reject any late submission.

(4) A freshwater hearings panel may recommend to a relevant regional council that a variation be made to a freshwater planning instrument.

Schedule 1 clause 40: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 41 Pre-hearing meetings

(1) The chairperson of a freshwater hearings panel may convene a pre-hearing meeting for the purpose of—

(a) clarifying a matter or an issue; or

(b) facilitating resolution of a matter or an issue; or

(c) dealing with any matter of an administrative or a procedural nature.

(2) The chairperson may invite to the meeting—

(a) any person who made a submission on the freshwater planning instrument:

(b) the relevant regional council:

(c) any person who the chairperson considers has relevant expertise.

(3) The chairperson must appoint a person to chair the pre-hearing meeting.

(4) The chairperson of the pre-hearing meeting must provide the freshwater hearings panel with a report that—

(a) sets out any clarification or resolution of a matter or an issue agreed between the persons who attended the meeting; and

(b) sets out any outstanding matter or issue between them; and

(c) addresses any matter or issue identified by the chairperson to the freshwater hearings panel.

Schedule 1 clause 41: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 42 Council's role during hearings

(1) The relevant regional council must attend the hearings to assist a freshwater hearings panel in 1 or more of the following ways:

(a) to clarify or discuss matters in the freshwater planning instrument:

(b) to give evidence:

(c) to speak to submissions or address issues raised by them:

(d) to provide any other relevant information as requested by the panel.

(2) Despite subclause (1), the freshwater hearings panel may excuse the relevant regional council from attending or remaining at any particular hearing.

(3) A failure by a relevant regional council or a freshwater hearings panel to comply with this clause does not invalidate the hearing or the hearings session.

(4) To avoid doubt, this clause does not limit or prevent the relevant regional council from—

(a) making a submission on the freshwater planning instrument:

(b) being heard on that submission.

(5) A regional council must comply with any requirement by the freshwater hearings panel to provide a hearing report in accordance with section 42A.

Schedule 1 clause 42: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 43 Conference of experts

(1) A freshwater hearings panel may, at any time during a hearing, direct that a conference of experts be held for the purpose of—

(a) clarifying a matter or an issue relating to the freshwater planning instrument; or

(b) facilitating resolution of a matter or an issue relating to the freshwater planning instrument.

(2) Without limiting the panel's discretion under subclause (1), the panel may authorise a representative of the relevant regional council with appropriate expertise to attend the conference.

(3) The persons attending the conference must provide the freshwater hearings panel with a report of the outcomes of the conference.

(4) If a conference requires a facilitator, the panel must appoint an independent facilitator.

(5) The facilitator of a conference must, after the conference, prepare a report on the conference and provide it in writing or electronically to—

(a) the freshwater hearings panel; and

(b) the persons who attended the conference.

(6) A facilitator must act under subclause (5) only if the freshwater hearings panel requires him or her to do so.

(7) A report prepared under subclause (5) must not, without a person's consent, include any material that the person communicated or made available at the conference on a without prejudice basis.

Schedule 1 clause 43: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 44 Alternative dispute resolution

(1) A freshwater hearings panel may, at any time during a hearing, refer to mediation or any other alternative dispute resolution process the persons listed in subclause (2) if—

(a) the panel considers that it is—

(i) appropriate to do so; and

(ii) likely to resolve issues between the parties that relate to the freshwater planning instrument; and

(b) each person has consented (other than the relevant regional council, which must participate if referred by the panel).

(2) The persons are—

(a) 1 or more submitters; and

(b) the relevant regional council; and

(c) any other person that the freshwater hearings panel considers appropriate.

(3) The freshwater hearings panel must appoint the mediator or person facilitating the mediation or other dispute resolution process (the **mediator**).

(4) The mediator must report the outcome to the freshwater hearings panel.

(5) The outcome reported under subclause (4) must not include any material without the consent of the relevant person, if the material was communicated or

made available by the person at the mediation or other process on a without prejudice basis.

Schedule 1 clause 44: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Notification of report and preparation of proposed policy statement, plan, or change*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 45 Freshwater hearings panel may commission reports

(1) A freshwater hearings panel may, at any time before or during a hearing, require the relevant regional council, or commission a consultant or any other person, to prepare a report on—

(a) 1 or more submissions; or

(b) any matter arising from a hearing; or

(c) any other matter that the panel considers necessary for the purpose of the panel making its recommendations.

(2) The report does not need to repeat information included in any submission.

(3) Instead, the report may—

(a) adopt all of the information; or

(b) adopt any part of the information by referring to the part adopted.

(4) The freshwater hearings panel—

(a) may consider the report at the hearing or when making its recommendations, or both; and

(b) must require the relevant regional council to make the report available for inspection on its Internet site and at its offices.

(5) The freshwater hearings panel may request and receive, from the person who prepared the report, any information and advice that is relevant and reasonably necessary for the panel to make its recommendations under clause 49.

Schedule 1 clause 45: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 46 Freshwater hearings panel may appoint special advisor and friend of submitter

(1) The chairperson of a freshwater hearings panel may appoint as a special advisor a person who is able to assist the panel in any hearing.

(2) A special advisor is not a member of the panel but may assist the panel in any way that the panel thinks fit.

(3) The chairperson of a freshwater hearings panel—

(a) may appoint a friend of submitter for the purpose of providing support to the submitter in relation to the hearings; but

(b) must consult the relevant regional council before making an appointment.

Schedule 1 clause 46: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Extensions of time*

Heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 47 Chief Freshwater Commissioner may extend time frame

(1) A regional council or the chairperson of a freshwater hearings panel may request the Chief Freshwater Commissioner for an extension of a time frame specified in clauses 37, 40, 51, and 52 in relation to a freshwater planning instrument.

(2) The person applying must state why the extension is sought, the proposed time frame, and how the person intends to meet the proposed time frame.

(3) The Chief Freshwater Commissioner may—

(a) decline the request; or

(b) fully accept the request (including the proposed time frame); or

(c) partially accept the request and determine a different time frame.

(4) The Chief Freshwater Commissioner may grant a regional council or a freshwater hearings panel an extension more than once (in relation to the same or a different provision specified in subclause (1)).

(5) However, the total period of any extension (regardless of who applied for it) must not exceed 12 months in relation to a freshwater planning instrument.

Schedule 1 clause 47: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Other procedural matters*

Heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 48 Procedures of freshwater hearings panel

(1) Every freshwater hearings panel must—

(a) regulate its own proceedings in a manner that is appropriate and fair in the circumstances; and

(b) keep a full record of proceedings.

(2) At a hearing, a freshwater hearings panel may—

(a) permit a party to question another party or witness:

(b) prohibit cross-examination:

(c) permit cross-examination at the request of a party but only if the panel is satisfied that it is in the interests of justice:

(d) regulate the conduct of any cross-examination.

Schedule 1 clause 48: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Process for recommendations of freshwater hearings panel*

Heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 49 Freshwater hearings panel must make recommendations to regional council on freshwater planning instrument

(1) A freshwater hearings panel must make recommendations on the freshwater planning instrument.

(2) The freshwater hearings panel—

(a) is not limited in making recommendations only within the scope of submissions made on the freshwater planning instrument; and

(b) may make recommendations on any other matters relating to the freshwater planning instrument identified by the panel or any other person during the hearing.

*Recommendations must be provided in reports*

(3) The freshwater hearings panel must provide its recommendations to the relevant regional council in 1 or more written reports.

(4) Each report must include—

(a) the panel's recommendations on the provisions of the freshwater planning instrument covered by the report, and identify any recommendations that are out of scope of the submissions made in respect of those provisions; and

(b) the panel's recommendations on the provisions and matters raised in submissions made in respect of the provisions covered by the report; and

(c) the panel's reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

(i) the provisions of the freshwater planning instrument to which they relate; or

(ii) the matters to which they relate.

(5) Each report may also include—

(a) matters relating to any consequential alterations necessary to the freshwater planning instrument arising from submissions; and

(b) any other matter that the panel considers relevant to the freshwater planning instrument that arises from submissions or otherwise.

(6) To avoid doubt, a panel is not required to make recommendations in a report that address each submission individually.

Schedule 1 clause 49: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Public submissions*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 50 Matters that affect recommendations

A freshwater hearings panel, in formulating its recommendations, must—

(a) have regard to—

(i) any reports prepared under section 42A and clauses 41, 43, 45, and 46; and

(ii) any reports produced as a result of mediation or other alternative dispute resolution directed by the panel; and

(iii) any technical or other reports commissioned by the panel; and

(iv) any advice or other assistance provided by a special advisor appointed under clause 46; and

(b) take account of any alternative dispute resolution outcomes reported under clause 44; and

(c) include in its recommendations a further evaluation of the freshwater planning instrument undertaken in accordance with section 32AA; and

(d) be sure that if the relevant regional council were to accept the panel's recommendations, the following would be complied with:

(i) sections 43B, 59 to 68, 69 to 70B, 85A, and 85B(2); and

(ii) any other provision of any enactment (including this Act) that applies to the council's preparation of the plan.

Schedule 1 clause 50: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 51 Deadline for recommendations

A freshwater hearings panel must provide its report under clause 49 to the relevant regional council no later than the date that is 40 working days before the expiry of 2 years after the date on which the freshwater planning instrument was publicly notified by the relevant regional council.

Schedule 1 clause 51: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Regional council's response to recommendations*

Heading: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 52 Relevant regional council to consider recommendations and notify decisions on them

(1) The relevant regional council must—

(a) decide whether to accept or reject each recommendation of the freshwater hearings panel; and

(b) for each rejected recommendation that is within the scope of submissions, decide an alternative solution, which—

(i) may or may not include elements of both the freshwater planning instrument as notified and the freshwater hearings panel's recommendation in respect of that part of the freshwater planning instrument; but

(ii) must be within the scope of the submissions; and

(c) for each rejected recommendation that is outside the scope of submissions, decide an alternative solution, which may be within or outside the scope of submissions; and

(d) include an assessment of each alternative solution to a rejected recommendation in the further evaluation report required under section 32AA.

(2) The regional council must make decisions under subclause (1) in a manner that is consistent with any relevant iwi participation legislation, Mana Whakahono a Rohe, or joint management agreement.

(3) When making decisions under subclause (1), the relevant regional council—

(a) is not, subject to subclause (2), required to consult any person or consider submissions or other evidence from any person; and

(b) must not consider any submission or other evidence unless it was made available to the freshwater hearings panel before the panel made the recommendation that is the subject of the relevant regional council's decision.

(4) To avoid doubt, the relevant regional council may accept recommendations of the freshwater hearings panel that are beyond the scope of the submissions made on the freshwater planning instrument.

(5) The relevant regional council must, no later than 40 working days after it is provided with the report, publicly notify its decisions under subclause (1) in a way that sets out the following information:

(a) each recommendation of the freshwater hearings panel that it accepts:

(b) each recommendation of the freshwater hearings panel that it rejects and the reasons for doing so:

(c) the alternative solution for each rejected recommendation.

(6) After the regional council publicly notifies its decisions, it must comply with clause 11 as if the decisions were notified under clause 10(4)(b).

(7) On and from the date the decisions are publicly notified, the freshwater planning instrument is amended in accordance with the decisions.

(8) A regional council must publicly notify the availability of the report of the freshwater hearings panel, the council's decisions, and where the report and the decisions may be viewed or accessed.

Schedule 1 clause 52: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 53 Variations to freshwater planning instrument

(1) If at any time after complying with clause 37(1), a relevant regional council considers that a variation to the freshwater planning instrument is needed, the council must—

(a) notify the Chief Freshwater Commissioner in writing of the need for the variation; and

(b) provide any additional information requested by the Chief Freshwater Commissioner for the purpose of subclause (3).

(2) A regional council must also comply with subclause (1)(a) and (b) if it considers that a variation to a freshwater instrument recommended by the freshwater hearings panel is needed (*see* clause 40(4)).

(3) The Chief Freshwater Commissioner must, after consulting the relevant freshwater hearings panel, determine whether to accept or reject the variation.

(4) In making a determination, the Chief Freshwater Commissioner must consider—

(a) whether the variation is needed to correct a significant defect in the freshwater planning instrument; and

(b) whether the variation is needed for the effective functioning of the freshwater planning instrument; and

(c) the impact that accepting the variation would have on the decision date of the freshwater planning instrument.

(5) The Chief Freshwater Commissioner must advise the relevant regional council in writing of the outcome of the determination.

(6) Clauses 16A and 16B apply, with any necessary modifications, to the variation. However, a variation that is initiated before the regional council complies with clause 37(1) must be merged into the freshwater planning instrument in accordance with clause 16B before the council complies with that clause.

Schedule 1 clause 53: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## Subpart 2—Appeals

Schedule 1 Subpart 2 heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 54 Appeal rights

(1) The appeal rights available in respect of a freshwater planning instrument are as provided in clauses 55 and 56.

(2) To avoid doubt, no further appeal lies to the Supreme Court (by leave or otherwise).

Schedule 1 clause 54: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Decision*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 55 Right of appeal in relation to rejected recommendation

(1) A person who made a submission on a freshwater planning instrument may appeal to the Environment Court in respect of a provision or matter relating to the freshwater planning instrument—

(a) that the person addressed in the submission; and

(b) in relation to which the relevant regional council rejected a recommendation of the freshwater hearings panel and decided an alternative solution which resulted in—

(i) a provision or matter being included in the freshwater planning instrument; or

(ii) a provision or matter being excluded from the freshwater planning instrument.

(2) If a regional council decides to reject a recommendation of the freshwater hearings panel that is outside the scope of submissions, a person who made a submission may appeal to the Environment Court in respect of that decision or the alternative solution proposed by the council.

(3) The Environment Court must treat an appeal under this clause as if it were a hearing under clause 15(1) or (2).

(4) Except as provided in this clause, the following provisions apply with all necessary modifications:

(a) Parts 11 and 11A but not section 308; and

(b) clauses 14(4) and (5) and 15(1) and (2) of this schedule.

Schedule 1 clause 55: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 56 Right of appeal in relation to accepted recommendation

(1) A person who made a submission on a freshwater planning instrument may appeal to the High Court in respect of a provision or matter relating to the freshwater planning instrument—

(a) that the person addressed in the submission; and

(b) in relation to which the relevant regional council accepted a recommendation of the freshwater hearings panel which resulted in—

(i) a provision or matter being included in a freshwater planning instrument; or

(ii) a provision or matter being excluded from a freshwater planning instrument.

(2) If a regional council decides to accept a recommendation of the freshwater hearings panel that is outside the scope of submissions, a person who made a submission may appeal to the High Court in respect of that decision.

(3) An appeal under this clause may be on a question of law only.

(4) Except as otherwise provided in this clause, sections 299(2), 300 to 308, and Part 11A apply with all necessary modifications.

Schedule 1 clause 56: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 57 Judicial review

(1) Nothing in this Part limits or affects any right of judicial review a person may have in respect of any matter to which this Part applies except as provided in clause 55(4) (which applies section 296, that section being in Part 11).

(2) However, a person must not both apply for judicial review of a decision made under this Part and appeal to the High Court under clause 56 in respect of the decision unless the person lodges the applications for judicial review and appeal together.

(3) If applications for judicial review and appeal are lodged together, the High Court must try to hear the judicial review and appeal proceedings together, but need not if the court considers it impracticable to do so in the circumstances of the particular case.

Schedule 1 clause 57: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## *Transitional arrangement*

## *[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## Subpart 3—Freshwater hearings panels

Schedule 1 Subpart 3 heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 58 Chief Freshwater Commissioner's powers and functions in relation to freshwater hearings panels

(1) The Chief Freshwater Commissioner has the following powers and functions:

(a) to decide when freshwater hearings panels are to be convened:

(b) to determine, after considering the documents submitted by a regional council under clause 37(1) in relation to a freshwater planning instrument, the appropriate size and composition of a freshwater hearings panel in accordance with clause 59:

(c) to consider nominations for appointment to a freshwater hearings panel made under clause 59(1)(b) and (c):

(d) to appoint members of a freshwater hearings panel in accordance with clause 59:

(e) to appoint the chairperson of a freshwater hearings panel.

(2) The Chief Freshwater Commissioner may direct that a freshwater hearings panel be split into 2 panels if the Commissioner considers it appropriate in the circumstances.

Schedule 1 clause 58: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Rights of appeal under collaborative planning process*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 59 Composition of freshwater hearings panel

(1) Each freshwater hearings panel must comprise 5 members as follows:

(a) 2 freshwater commissioners; and

(b) 2 persons who—

(i) are nominated by the relevant regional council; and

(ii) may or may not be elected regional council members; and

(c) 1 person with an understanding of tikanga Māori and mātauranga Māori who—

(i) is nominated by local tangata whenua; or

(ii) if no nomination is made, is appointed by the Chief Freshwater Commissioner.

(2) However, the number of members on a freshwater hearings panel—

(a) may exceed 5 if the Chief Freshwater Commissioner considers there are special circumstances in the region to which the freshwater planning instrument applies; or

(b) may be fewer than 5 (but no fewer than 3) if the Chief Freshwater Commissioner considers that the scale and complexity of the freshwater planning instrument does not warrant the appointment of 5 members.

(3) When appointing fewer than 5 members to a freshwater hearings panel, the Chief Freshwater Commissioner must ensure that the panel includes—

(a) 1 person described in subclause (1)(b); and

(b) 1 person described in subclause (1)(c); and

(c) 1 freshwater commissioner.

(4) When appointing more than 5 members to a freshwater hearings panel, the Chief Freshwater Commissioner must ensure that the panel includes the 5 members referred to in subclause (1)(a) to (c).

(5) The Chief Freshwater Commissioner must convene each freshwater hearings panel in a manner that is consistent with any relevant iwi participation legislation, Mana Whakahono a Rohe, or joint management agreement.

(6) When convening a freshwater hearings panel, the Chief Freshwater Commissioner must consider the need for the panel to collectively have knowledge of and expertise in relation to—

(a) judicial processes and cross-examination; and

(b) freshwater quality, quantity, and ecology; and

(c) this Act; and

(d) tikanga Māori and mātauranga Māori; and

(e) Te Mana o te Wai; and

(f) water use in the local community; and

(g) subject areas likely to be relevant to the work of the panel.

(7) A freshwater hearings panel member must be accredited under section 39A unless the Chief Freshwater Commissioner is satisfied there are special circumstances in relation to the freshwater hearings panel to which the commissioner is appointed.

Schedule 1 clause 59: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 60 Appointment of chairperson of freshwater hearings panel

(1) The Chief Freshwater Commissioner must appoint the chairperson of a freshwater hearings panel.

(2) Before appointing a chairperson, the Chief Freshwater Commissioner must consider the desirability of the chairperson having knowledge and expertise in relation to judicial processes and cross-examination.

(3) The chairperson must be a freshwater commissioner and may be the Chief Freshwater Commissioner.

(4) In the event of an equality of votes, the chairperson has a casting vote.

Schedule 1 clause 60: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 61 Liability of members of freshwater hearings panel

A member of a freshwater hearings panel is not liable for anything the member does, or omits to do, in good faith in performing the functions and duties or exercising the powers of a panel.

Schedule 1 clause 61: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 62 Other duties of Chief Freshwater Commissioner in relation to panel members

(1) The Chief Freshwater Commissioner may,—

(a) at any time, for just cause, remove a member from a freshwater hearings panel; and

(b) appoint new members to the freshwater hearings panel in accordance with clause 59.

(2) The Chief Freshwater Commissioner must notify members of their appointment to a freshwater hearings panel and when their appointment commences.

(3) When removing a member from a freshwater hearings panel, the Chief Freshwater Commissioner must tell the member in writing of the date on which the removal takes effect and the reasons for the removal.

(4) A member is not entitled to any compensation or other payment or benefit relating to the person ceasing, for any reason, to be a member of the panel.

(5) In subclause (1), **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the freshwater hearings panel or the individual duties of members of the panel.

Schedule 1 clause 62: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## *Approval of proposed policy statement or plan*

## *[Repealed]*

Heading: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 63 Funding of freshwater hearings panel and related activities

(1) The relevant regional council is responsible for all costs incurred by a freshwater hearings panel and for the activities related to the performance or exercise of the panel's functions and powers under this Part.

(2) Subclause (1) applies from the date that members are appointed to the freshwater hearings panel.

(3) Without limiting subclause (1), the relevant regional council is responsible for—

(a) the remuneration and expenses of the members of the freshwater hearings panel; and

(b) the administrative costs of each hearing session, including venue hire and public notices; and

(c) the remuneration of any expert, mediator or other dispute resolution facilitator, or other person whose services are engaged by the panel under this Part; and

(d) the allowances payable to any witness called by the panel; and

(e) the costs of any special advisor or friend of submitter appointed by the panel; and

(f) providing administrative and secretarial support services to the panel as required.

(4) For the purposes of subclause (1), each member of the freshwater hearings panel, other than members of a regional council, must be paid—

(a) remuneration by way of salary, fees, or allowances at a rate determined by the Minister; and

(b) actual and reasonable travelling and other expenses incurred in carrying out his or her office in accordance with the Fees and Travelling Allowances Act 1951, and that Act applies as if the members were members of a statutory Board within the meaning of that Act.

(5) Members of a regional council who are appointed to a freshwater hearings panel must be paid at a rate determined by the relevant council.

Schedule 1 clause 63: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Review panels*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 64 Continued existence of freshwater hearings panel

A freshwater hearings panel exists until it has completed the performance and exercise of its functions and powers under this Part in relation to the hearing of submissions, including any related appeals that are filed in any court.

Schedule 1 clause 64: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## Subpart 4—Freshwater commissioners

Schedule 1 Subpart 4 heading: inserted, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 65 Minister may appoint freshwater commissioners

(1) The Minister may appoint freshwater commissioners.

(2) The Minister must appoint freshwater commissioners who—

(a) are accredited under section 39A; and

(b) collectively have knowledge of and expertise in relation to—

(i) judicial processes and cross-examination; and

(ii) freshwater quality, quantity, and ecology; and

(iii) this Act; and

(iv) tikanga Māori and mātauranga Māori.

(3) The Minister must appoint as Chief Freshwater Commissioner a freshwater commissioner who is an Environment Court Judge or retired Environment Court Judge.

Schedule 1 clause 65: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 66 How freshwater commissioners appointed

(1) The Minister must give a person appointed as a freshwater commissioner a written notice of appointment.

(2) The notice of appointment must—

(a) state the date on which the appointment takes effect; and

(b) state the term of the appointment; and

(c) specify that the costs of the freshwater commissioner—

(i) that are for purposes specific to a freshwater hearings panel will be met by the relevant regional council; and

(ii) that are for other purposes directed by the Chief Freshwater Commissioner will be met by the Crown.

Schedule 1 clause 66: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Terms and liabilities*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 67 When freshwater commissioner's appointment ceases

(1) A person appointed as a freshwater commissioner will remain in that office until the earliest of the following:

(a) the person's term of appointment ends:

(b) the person dies:

(c) the person resigns by giving 20 working days' written notice to the Minister.

(2) The Minister may, at any time for just cause, by written notice, terminate the appointment of a freshwater commissioner.

(3) The Minister may, at any time for just cause, remove a freshwater commissioner by written notice to that person (with a copy to the Chief Freshwater Commissioner).

(4) The notice must state—

(a) the date on which the removal takes effect, which must not be earlier than the date on which the notice is received by the freshwater commissioner; and

(b) the reasons for the removal.

(5) A freshwater commissioner is not entitled to any compensation or other payment or benefit relating to the person ceasing, for any reason, to hold office as a freshwater commissioner or the Chief Freshwater Commissioner.

(6) In subclause (2), **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the freshwater hearings panel or the individual duties of members of the panel.

Schedule 1 clause 67: replaced, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 68 Liability of members of panel

*[Repealed]*

Schedule 1 clause 68: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## *Functions and powers*

## *[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 69 Functions of panel

*[Repealed]*

Schedule 1 clause 69: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 70 Powers of panel

*[Repealed]*

Schedule 1 clause 70: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Procedural matters*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 71 Procedures of panel

*[Repealed]*

Schedule 1 clause 71: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

*Evidentiary matters*

*[Repealed]*

Heading: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 72 Reports

*[Repealed]*

Schedule 1 clause 72: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 73 Conference of experts

*[Repealed]*

Schedule 1 clause 73: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

### 74 Information provided to review panel

*[Repealed]*

Schedule 1 clause 74: repealed, on 1 July 2020, by section 103(3) of the Resource Management Amendment Act 2020 (2020 No 30).

## Part 5
## Streamlined planning process

Schedule 1 Part 5: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 75 Contents of application for directions

An application to a Minister for a direction under section 80C to use the streamlined planning process must—

(a) be in writing; and

(b) set out the following matters:

(i) a description of the planning issue (including any requirement, designation, or heritage order) for which a planning instrument is

required, with an explanation as to how the proposal meets any of the criteria set out in section 80C(2); and

(ii) an explanation of why use of the streamlined planning process is appropriate as an alternative to using the process under Part 1 of this schedule; and

(iii) a description of the process that the local authority wishes to use and the time frames that it proposes for the steps in that process, having regard to the relevant criteria under section 80C(2); and

(iv) the persons that the local authority considers are likely to be affected by the proposed planning instrument; and

(v) a summary of any consultation undertaken on the proposed planning instrument by the local authority, or intended to be undertaken, including consultation with iwi authorities under clauses 1A to 3C; and

(vi) the implications of using the process that the local authority wishes to use for any relevant iwi participation legislation or Mana Whakahono a Rohe entered into under subpart 2 of Part 5 of this Act.

Schedule 1 clause 75: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 76 How responsible Minister considers request

(1) The requirements of this clause apply to a local authority's request to use the streamlined planning process.

(2) The responsible Minister must have regard to—

(a) the local authority's written request; and

(b) whether the local authority has, in the Minister's opinion, provided sufficient information in support of its request; and

(c) any relevant obligations set out in any iwi participation legislation or Mana Whakahono a Rohe; and

(d) any other matters that the Minister considers relevant; and

(e) the purpose of the streamlined planning process, as stated in section 80B(1).

(3) The responsible Minister may require the local authority to provide any further information in support of its request that he or she may reasonably specify in writing.

(4) In relation to the streamlined planning process that he or she is proposing to implement by way of a direction under clause 78, the responsible Minister must consult—

(a) the local authority; and

(b) any other relevant Ministers of the Crown; and

(c) any person who has requested a private plan change that is accepted under clause 25(2)(b); and

(d) any requiring authority that has consented under section 170 to include a requirement.

(5) The responsible Minister may consult any other person about the content of the streamlined planning process that the Minister is proposing.

(6) The responsible Minister must ensure that the streamlined planning process to be implemented by a direction given under clause 78 is not inconsistent with obligations under any relevant iwi participation legislation or Mana Whakahono a Rohe.

Schedule 1 clause 76: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 77 Responsible Minister's decision

(1) The responsible Minister may decide a local authority's application for a direction to enter the streamlined planning process by—

(a) giving a direction under clause 78 that the local authority use the streamlined process set by the Minister in that direction; or

(b) declining the local authority's request.

(2) The responsible Minister's decision (and direction, if issued) must be—

(a) given in writing with reasons; and

(b) served by the Minister on the relevant local authority; and

(c) served by the local authority,—

(i) in the case of a notice of requirement, designation, or heritage order, on the relevant requiring authority or heritage protection authority; and

(ii) in the case of a private plan change, on the person who requested the change.

Schedule 1 clause 77: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 78 Direction and its content

(1) A direction applied for under section 80C is given under this clause.

(2) In deciding the content of the direction, the responsible Minister must have regard to—

(a) the purpose of the proposed streamlined planning process, the local authority's request, and any supplementary information provided by the local authority; and

(b) the views of persons and bodies consulted under clause 76(4) or (5).

(3) The direction—

(a) must provide for the matters set out in subclause (4); and

(b) must include the Minister's statement of expectations for the local authority; and

(c) may include any matters provided for in subclause (5).

(4) The streamlined planning process set out in the direction must, at a minimum, provide for—

(a) consultation with affected parties on the proposed planning instrument, including with the responsible Minister and iwi authorities (if not already undertaken); and

(b) public notification of the proposed planning instrument in accordance with clause 5 (other than clause 5(3)), or limited notification under clause 5A (other than clause 5A(6)); and

(c) an opportunity for written submissions under clause 6 or 6A; and

(d) a report showing how submissions have been considered and the changes (if any) made to the proposed planning instrument; and

(e) the preparation of an evaluation report on the proposed planning instrument under section 32 or 32AA, as may be relevant; and

(f) decision makers to give particular regard to the report prepared under paragraph (e); and

(g) the time period within which the streamlined planning process must be completed.

(5) The responsible Minister may also include in the streamlined planning process any other procedural requirements and time frames not provided for under subclause (4)(g) that the Minister considers appropriate, including—

(a) any reporting requirements; and

(b) any relevant planning process requirements set out in this schedule or elsewhere in this Act.

(6) If a direction includes a requirement for a hearing, the restrictions of section 39(2)(c) and (d) (which relates to questioning and cross-examination in a hearing) do not apply.

(7) A direction under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this clause** | | |
|---|---|---|
| **Publication** | The maker must:<br>• publish it in the *Gazette*<br>• ensure that it is published on an Internet site maintained by, or on behalf of, the relevant local authority from which the public can access or download it | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | The Minister must present it to the House of Representatives | LA19 s 114, Sch 1 cl 32(1)(a) |

**Disallowance** It may be disallowed by the House of Representatives LA19 ss 115, 116
*This note is not part of the Act.*

Schedule 1 clause 78: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 78(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 79 Form and status of directions under Legislation Act 2012

*[Repealed]*

Schedule 1 clause 79: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 80 Amendment of direction

(1) The responsible Minister may initiate an amendment of a direction.

(2) A local authority may request in writing that the responsible Minister amend a direction that applies to that local authority, setting out the reasons for the request.

(3) The responsible Minister may amend his or her direction as the Minister thinks appropriate.

(4) Unless an amendment made under this clause has no more than a minor effect or is made to correct a technical error, clauses 76(2) to (6), 77(2), 78(3), and 79 apply.

Schedule 1 clause 80: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## *Other matters relevant to direction*

Heading: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 81 Time limits

(1) A local authority may apply in writing to request that the responsible Minister approve an extension to any time frames that apply to the local authority under the Minister's direction.

(2) The Minister must consider and determine the application.

(3) If a time limit is set in a direction,—

(a) section 37 does not apply to permit a time period set in a direction to be extended; but

(b) section 37 applies to permit a local authority to waive a failure of a person to comply with the time or method of serving a document, but not to waive a failure of the local authority to comply with the direction.

Schedule 1 clause 81: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 82 Local authority must comply with direction

(1) A local authority—

(a) must comply with the terms of a direction given under clause 78 (other than in respect of the Minister's statement of expectations included in the direction); but

(b) must have regard to that statement.

(2) The direction applies as from time to time amended in accordance with clause 80 and subject to any extension of time allowed under clause 81.

Schedule 1 clause 82: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Process for approval of proposed planning instrument*

Heading: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 83 Local authority must submit proposed planning instrument to responsible Minister

(1) A local authority that is subject to a direction under clause 78 must submit to the responsible Minister, within the time required by the direction,—

(a) the proposed planning instrument, including any recommendations it contains in respect of requirements, designations, or heritage orders; and

(b) a summary report of the written submissions; and

(c) a report showing how submissions have been considered and any modifications made to the proposed planning instrument in light of the submissions; and

(d) the evaluation reports required by sections 32 and 32AA; and

(e) a summary document showing how the local authority has had regard to the statement of expectations; and

(f) a summary document showing how the proposed planning instrument complies with the requirements of—

(i) any relevant national direction; and

(ii) this Act or regulations made under it; and

(g) any other information and documentation that is specified in the direction.

(2) However, the territorial authority must consult the relevant requiring authority or heritage protection authority on the recommendations before it submits to the Minister information required by subclause (1)(a) that relates to a requirement, designation, or heritage order.

(2A) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before submitting, to Kāinga Ora–Homes and Communities, in certain circumstances).

(3) The local authority may provide any further information in addition to the requirements of subclause (1).

Schedule 1 clause 83: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 83(2A): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

### 84 Responsible Minister to consider proposed planning instrument

(1) The responsible Minister may—

(a) refer the proposed planning instrument submitted under clause 83(1)(a) back to the local authority—

(i) with his or her approval; or

(ii) for further consideration, with or without specific recommendations for changes to the proposed planning instrument; or

(b) decline to approve the proposed planning instrument.

(2) In deciding which action to take under subclause (1), the responsible Minister must have regard to—

(a) whether the local authority has complied with the procedural requirements, including time frames, required by the direction; and

(b) whether, and if so, how the local authority—

(i) has had regard to the statement of expectations; and

(ii) has met the requirements of this Act, regulations made under it, and any relevant national direction.

(3) In making his or her decision on a proposed planning instrument, the responsible Minister may have regard to—

(a) the purpose of the streamlined planning process; and

(b) any other matter relevant to the Minister's decision.

(4) The responsible Minister's decision on a proposed planning instrument must be in writing with reasons and be served on the local authority.

Schedule 1 clause 84: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 85 Proposed planning instrument approved or declined

(1) This clause applies if the responsible Minister approves or declines, under clause 84(1)(a)(i) or (b), a local authority's proposed planning instrument that includes a requirement, designation, or heritage order.

(2) If the responsible Minister approves the proposed planning instrument under clause 84(1)(a)(i), any recommendation of the territorial authority included in the instrument on a requirement, designation, or heritage order becomes an approved recommendation.

(3) If the responsible Minister declines to approve the proposed planning instrument under clause 84(1)(b), any recommendation of the territorial authority approved by the Minister on a requirement, designation, or heritage order, must be treated,—

(a) in the case of a requirement, as a recommendation to withdraw the requirement:

(b) in the case of an existing designation or heritage order, as a recommendation to confirm the designation or heritage order without change.

(4) The local authority must serve the approved recommendations on the relevant requiring authority or heritage protection authority, and clauses 9, 11(2) and (3), and 13 apply, as the case requires.

(5) *See* clause 90 for notification requirements.

Schedule 1 clause 85: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 86 Responsible Minister may refer proposed planning instrument back to local authority

(1) This clause applies if the responsible Minister refers a local authority's proposed planning instrument back to the local authority for further consideration under clause 84(1)(a)(ii), with or without any recommended changes.

(2) The responsible Minister may extend any time frame in the relevant direction as may be required for the purposes of this clause to ensure that the local authority can comply with the direction.

(3) The local authority must—

(a) reconsider the proposed planning instrument in light of the responsible Minister's stated reasons and any recommended changes; and

(b) make any changes that the local authority considers appropriate; and

(c) consult the requiring authority or heritage protection authority if the local authority has reconsidered a recommendation relating to the inclusion of a requirement, designation, or heritage order in the proposed planning instrument; and

(d) resubmit the revised proposed planning instrument to the responsible Minister.

(4) The responsible Minister may reconsider the local authority's revised proposed planning instrument and approve it once he or she is satisfied that it meets the requirements for approval in clause 84.

Schedule 1 clause 86: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 87 Decision to decline to approve proposed planning instrument

(1) If the responsible Minister declines to approve a local authority's proposed planning instrument under clause 84(1)(b), the local authority must notify the

Minister's decision under clause 90, giving the Minister's reasons for the decision.

(2) The local authority must not proceed further with the proposed planning instrument under this subpart.

(3) However, this clause does not apply to recommendations on any provisions of the instrument that relate to a requirement, designation, or heritage order (*see* clause 85).

Schedule 1 clause 87: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 88 Power to withdraw

(1) If a local authority that is subject to a direction under clause 78 has initiated the preparation of a policy statement or plan, the local authority may withdraw the proposed planning instrument set out in the direction at any time before the responsible Minister's decision is made under clause 84.

(2) A person who has requested a private plan change may withdraw the request at any time before the Minister makes a decision under clause 84.

(3) The local authority must give public notice of a withdrawal under subclause (1) or (2), including the reasons for the withdrawal.

(4) The direction given under clause 78 ceases to have effect and is revoked when the withdrawal under subclause (1) or (2) is publicly notified.

Schedule 1 clause 88: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 89 Responsible Minister may revoke direction

(1) If the responsible Minister wishes to revoke, in whole or in part, a direction given under clause 78, the Minister—

(a) must consult the relevant local authority about the proposal to revoke the direction; and

(b) must give public notice, with adequate time and opportunity for the public to comment on the proposal; and

(c) must give notice of the revocation in the *Gazette*; but

(d) may otherwise make the revocation without further consultation.

(2) If a direction is revoked, the proposed planning instrument is withdrawn.

(3) The relevant local authority must give public notice if the proposed planning instrument is withdrawn.

Schedule 1 clause 89: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Notification and operation of planning instrument*

Heading: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 90 Notification of responsible Minister's decision

(1) This clause applies when the responsible Minister has made a decision on a proposed planning instrument under clause 84(1)(a)(i) or (b).

(2) The local authority concerned must give public notice of the responsible Minister's decision on the proposed planning instrument as follows:

- (a) if the Minister approves the instrument,—
  - (i) the Minister's decision must be publicly notified; and
  - (ii) the planning instrument becomes operative in accordance with clause 20 and the provisions of that clause apply:
- (b) if the Minister does not approve the proposed planning instrument, the Minister must—
  - (i) give public notice of the decision; and
  - (ii) state in that notice that the proposed planning instrument has no further effect.

(3) Not later than 5 working days after the Minister's decision is publicly notified, the local authority must serve the public notice on—

- (a) all submitters; and
- (b) if relevant, the person who requested a private plan change to be included in the planning instrument; and
- (c) if relevant, the requiring authority or heritage protection authority whose requirement, designation, or heritage order is included in the planning instrument; and
- (d) in the case of a territorial authority's own requirement, designation, or heritage order, the landowners and occupiers who, in the opinion of the territorial authority, are directly affected by the decision.

(4) The local authority must also—

- (a) make a copy of the public notice and the reports prepared under clause 83(1) publicly available (whether physically or by electronic means) at all of its offices, and all public libraries in the district (if it relates to a district plan) or region (in all other cases); and
- (b) include with the notice a statement of the places where a copy of the decision is available; and
- (c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

Schedule 1 clause 90: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

*Effect of decisions under this Part*

Heading: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 91 Scope of appeal rights

(1) There is no right of appeal under this Act against any decision or action of the responsible Minister, a local authority, or any other person under this Part, except as provided under clauses 92 and 93.

(2) Parts 11 and 11A of this Act apply to appeals under clauses 92 and 93.

Schedule 1 clause 91: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 92 Appeals in relation to requirements, designations, and heritage orders

(1) An appeal may be made to the Environment Court against any aspect of a decision of a requiring authority or heritage protection authority that rejects the recommendation referred to in clause 85(2) or (3), but only in relation to those aspects of the recommendation that have been rejected.

(2) An appeal under this clause may be made by—

(a) the territorial authority with responsibility for the relevant planning instrument:

(b) any person who made a submission on the designation or heritage order that referred to the matter under appeal.

Schedule 1 clause 92: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 93 Appeals on questions of law in relation to requirements, designations, and heritage orders

(1) An appeal may be made to the High Court against any aspect of a decision of a requiring authority or heritage protection authority that accepts the recommendation referred to in clause 85(2) or (3) on a designation or heritage order.

(2) An appeal may be made by—

(a) the territorial authority with responsibility for the relevant planning instrument:

(b) any person who made a submission on the requirement, designation, or heritage order that referred to the matter under appeal.

(3) An appeal under this clause is an appeal on a question of law only.

Schedule 1 clause 93: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 94 Procedural matters

(1) A notice of appeal under clause 92 or 93 must—

(a) be lodged in accordance with subclause (2) in the appropriate registry of the Environment Court or the High Court, as the case requires, in the prescribed form (if any); and

(b) be served,—

(i) on the territorial authority with responsibility for the relevant planning instrument at the same time as the appeal is lodged:

(ii) if the planning instrument includes a designation or heritage order, on the relevant requiring authority or heritage protection authority at the same time as the appeal is lodged:

(iii) on any person who made a submission on the requirement, designation, or heritage order that referred to the matter under appeal not later than 5 working days after the appeal is lodged.

(2) A notice of appeal must be lodged, as the case requires, not later than 30 working days—

(a) after the decision of the local authority is given under clause 11(2); or

(b) after the decision of the requiring authority or heritage protection authority is served under clause 13(4).

Schedule 1 clause 94: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

# Part 6
# Intensification streamlined planning process

Schedule 1 Part 6: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## *How specified territorial authority notifies intensification planning instrument*

Heading: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 95 How specified territorial authority notifies intensification planning instrument

*What specified territorial authority must do to notify intensification planning instrument*

(1) A specified territorial authority must prepare, notify, and progress an IPI by following the relevant processes described in subclause (2).

*Application of Part 1 of this schedule*

(2) The following clauses of Part 1 of this schedule apply to the extent that they are relevant to a specified territorial authority:

(a) clause 1A (which requires a proposed policy statement or plan to be prepared in accordance with any applicable Mana Whakahono a Rohe):

(b) clause 1B (which relates to iwi participation legislation):

(c) clause 2(1) (which requires a local authority to prepare a proposed policy statement or plan):

(d) clause 3(1), (2), and (4) (which relates to consultation requirements):

(e) clause 3B (which relates to consultation with iwi authorities):

(f) clause 3C (which relates to previous consultation under other enactments):

(g) clause 4A (which requires a local authority to fulfil certain pre-notification requirements concerning iwi authorities):

(h) clause 5(1)(a) and (b)(i), (1A), (1B), (2), and (3) to (6) (which requires a local authority to publicly notify a proposed policy statement or plan that it has decided to proceed with):

(i) clause 6 (which relates to who may make submissions on a publicly notified proposed policy statement or plan):

(j) clause 7(1) and (2) (which requires a local authority to give public notice of certain matters relating to submissions):

(k) clause 8(1) and (2) (which enables certain persons to make further submissions):

(l) clause 8A (which relates to serving copies of further submissions made under clause 8):

(m) clause 8AA (which enables a local authority to arrange a meeting with a person who has made a submission on a proposed policy statement or plan for the purpose of clarifying or facilitating the resolution of any matter relating to the statement or plan):

(n) clause 8B (which requires a local authority to hold a hearing into submissions on its proposed policy statement or plan):

(o) clause 16(2) (which enables a local authority to correct minor errors in a proposed policy statement or plan):

(p) clause 16A (which enables a local authority to initiate variations to a proposed policy statement or plan):

(q) clause 17 (which relates to when a local authority may approve a proposed policy statement or plan).

(3) In the clauses referred to in subclause (2),—

(a) references to a **local authority** are to be read as references to a specified territorial authority; and

(b) references to a **proposed policy statement or plan** are to be read as references to an IPI.

Schedule 1 clause 95: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*What specified territorial authority must do in respect of independent hearings panel*

Heading: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 96 Specified territorial authority must establish independent hearings panel and delegate necessary functions

(1) A specified territorial authority must—

(a) establish an independent hearings panel to—

(i) conduct a hearing of submissions on the IPI once it has been notified by the specified territorial authority; and

(ii) make recommendations, after the hearing of submissions is concluded, to the specified territorial authority; and

(b) appoint 1 member of the panel to be the chairperson of the panel.

(2) Before establishing an independent hearings panel, the specified territorial authority must—

(a) consult tāngata whenua through relevant iwi authorities on whether it is appropriate to appoint a member of the panel with an understanding of tikanga Māori and of the perspectives of local iwi or hapū; and

(b) if tāngata whenua consider it appropriate, appoint at least 1 member of the panel with an understanding of tikanga Māori and the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.

(3) The specified territorial authority must delegate the necessary functions to the independent hearings panel.

(4) In this clause, **necessary functions**—

(a) means the functions, powers, or duties that the independent hearings panel requires to carry out its role under subclause (1)(a); and

(b) includes the functions, powers, or duties that a local authority requires in order to hold a hearing under clause 8B; but

(c) does not include—

(i) the approval of a proposed policy statement or plan under clause 17:

(ii) this power of delegation.

Schedule 1 clause 96: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 97 Specified territorial authority must submit intensification planning instrument documents to independent hearings panel

A specified territorial authority must, as soon as is reasonably practicable, submit the following documents and information, as relevant, to the independent hearings panel that it has established under clause 96(1)(a):

(a) the IPI that was publicly notified:

(b) any variation made to the IPI under clause 16A:

(c) the specified territorial authority's evaluation report prepared under section 32:

(d) the submissions on the IPI received by the closing date for submissions:

(e) the specified territorial authority's summary of the decisions requested by submitters:

(f) further submissions on the IPI received by the closing date for further submissions:

(g) submissions received after the closing date for submissions or further submissions:

(h) information about when the submissions described in paragraph (g) were received:

(i) the planning documents that are recognised by an iwi authority and lodged with the specified territorial authority:

(j) documentation relevant to any obligations arising under any relevant iwi participation legislation, joint management agreement, or Mana Whakahono a Rohe:

(k) any other relevant information.

Schedule 1 clause 97: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Powers of independent hearings panel and process for recommendations*

Heading: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 98 Powers of independent hearings panel

(1) To the extent applicable, an independent hearings panel has the same duties and powers as a local authority under the following provisions:

(a) section 39 (which provides for how hearings are to be conducted), except section 39(2)(c) and (d):

(b) section 39AA (which enables a hearing to be conducted using remote access facilities):

(c) section 40 (which provides for the persons who may be heard at a hearing):

(d) section 41 (which provides for the application of certain provisions of the Commissions of Inquiry Act 1908):

(e) section 41A (which relates to the control of hearings):

(f) section 41B (which provides for the giving of directions as to the time for providing evidence in relation to a hearing):

(g) section 41C (which sets out the directions and requests that may be given before or at a hearing), except section 41C(4):

(h) section 41D (which provides for submissions to be struck out before or at a hearing):

(i) section 42 (which provides for the protection of sensitive information).

(2) If an independent hearings panel exercises a power under section 41D,—

(a) a person whose submission is struck out has a right of objection under section 357(2) as if the references in that subsection to an authority were references to an independent hearings panel; and

(b) sections 357C, 357D, and 358 apply to the independent hearings panel as the body to which an objection is made under section 357(2).

(3) An independent hearings panel may decide to accept or reject any late submission.

(4) At a hearing, an independent hearings panel may—

(a) permit a party to question another party or a witness:

(b) prohibit cross-examination:

(c) permit cross-examination at the request of a party, but only if the panel is satisfied that it is in the interests of justice:

(d) regulate the conduct of any cross-examination.

Schedule 1 clause 98: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 99 Independent hearings panel must make recommendations to territorial authority on intensification planning instrument

(1) An independent hearings panel must make recommendations to a specified territorial authority on the IPI.

(2) The recommendations made by the independent hearings panel—

(a) must be related to a matter identified by the panel or any other person during the hearing; but

(b) are not limited to being within the scope of submissions made on the IPI.

(3) An independent hearings panel, in formulating its recommendations, must be satisfied that, if the specified territorial authority were to accept the panel's recommendations, sections 85A and 85B(2) (which relate to the protection of protected customary rights) would be complied with.

Schedule 1 clause 99: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 100 How independent hearings panel must provide recommendations

(1) The independent hearings panel must provide its recommendations to a specified territorial authority in 1 or more written reports.

(2) Each report must—

(a) set out the panel's recommendations on the provisions of the IPI covered by the report; and

(b) identify any recommendations that are outside the scope of the submissions made in respect of those provisions; and

(c) set out the panel's recommendations on the matters raised in submissions made in respect of the provisions covered by the report; and

(d) state the panel's reasons for accepting or rejecting submissions; and

(e) include a further evaluation of the IPI undertaken in accordance with section 32AA (requirements for undertaking and publishing further evaluations).

(3) Each report may also include—

(a) matters relating to any alterations necessary to the IPI as a consequence of matters raised in submissions; and

(b) any other matter that the panel considers relevant to the IPI that arises from submissions or otherwise.

(4) In stating the panel's reasons for accepting or rejecting submissions in accordance with subclause (2)(d), each report may address the submissions by grouping them according to—

(a) the provisions of the IPI to which they relate; or

(b) the matters to which they relate.

(5) To avoid doubt, a panel is not required to make recommendations in a report that deal with each submission individually.

Schedule 1 clause 100: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### *Decisions on independent panel's recommendations*

Heading: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

#### 101 Specified territorial authority to consider recommendations

(1) The specified territorial authority—

(a) must decide whether to accept or reject each recommendation of the independent hearings panel; and

(b) may provide an alternative recommendation for any recommendation that the authority rejects.

(2) The specified territorial authority must refer to the Minister—

(a) each rejected recommendation, together with the authority's reasons for rejecting the recommendation; and

(b) any alternative recommendation that the authority has provided under subclause (1)(b).

(3) The specified territorial authority must make decisions under subclause (1) in a manner that is consistent with any relevant iwi participation legislation, Mana Whakahono a Rohe, or joint management agreement.

(4) When making decisions under subclause (1), the specified territorial authority—

(a) is not, subject to subclause (2), required to consult any person or consider submissions or other evidence from any person; and

(b) must not consider any submission or other evidence unless it was made available to the independent hearings panel before the panel made the recommendation that is the subject of the specified territorial authority's decision; and

(c) may seek clarification from the independent hearings panel on a recommendation in order to assist the specified territorial authority to make a decision under subclause (1).

(5) To avoid doubt, the specified territorial authority may accept recommendations of the independent hearings panel that are beyond the scope of the submissions made on the IPI.

Schedule 1 clause 101: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 102 Notification of specified territorial authority's decisions

(1) The specified territorial authority must publicly notify its decisions made under clause 101(1) in a way that sets out the following information:

(a) each recommendation of the independent hearings panel that it accepts; and

(b) each recommendation of the independent hearings panel that it rejects and the reasons for doing so; and

(c) any alternative recommendation that it has provided for a rejected recommendation.

(2) Subclause (3) applies if the specified territorial authority decides that it wishes to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error.

(3) The territorial authority may notify the recommendation as accepted, but only if, when complying with subclause (1)(a), it sets out the alterations to the recommendation.

(4) A recommendation to which subclause (2) applies must, for all purposes, be treated as a recommendation of the independent hearings panel accepted by the territorial authority.

(5) Not later than 5 working days after the specified territorial authority's decisions under subclause (1) are publicly notified, the authority must serve the public notice on every person who made a submission on the IPI.

(6) The specified territorial authority must also—

(a) make a copy of the public notice and the decisions under clause 101(1) publicly available—

(i) on an Internet site maintained by or on behalf of the territorial authority; and

(ii) in physical form at all of the territorial authority's offices and all public libraries in its district; and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

Schedule 1 clause 102: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 103 What happens if specified territorial authority accepts all recommendations of independent hearings panel

(1) This clause applies if the specified territorial authority decides to accept all the recommendations of the independent hearings panel.

(2) On the notification under clause 102(1) of the specified territorial authority's decisions,—

(a) all the recommendations of the independent hearings panel are incorporated into the district plan that has been subject to the ISPP; and

(b) the plan (as altered by those recommendations)—

(i) is deemed to have been approved by the territorial authority under clause 17(1); and

(ii) becomes operative in accordance with clause 20.

Schedule 1 clause 103: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 104 What happens if specified territorial authority accepts some, or none, of recommendations of independent hearings panel

(1) Clause 105 applies if the specified territorial authority—

(a) decides to accept some, or none, of the recommendations of the independent hearings panel; and

(b) refers, under clause 101(2), 1 or more recommendations to the Minister.

(2) On the notification under clause 102(1) of the specified territorial authority's decisions,—

(a) all the recommendations of the independent hearings panel that were accepted by the specified territorial authority are incorporated into the district plan that has been subject to the ISPP; and

(b) the affected parts of the plan (as altered by those recommendations)—

(i) are deemed to have been approved by the territorial authority under clause 17(1); and

(ii) become operative in accordance with clause 20.

Schedule 1 clause 104: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 105 Minister must decide on rejected and alternative recommendations

(1) The Minister must decide—

(a) to accept or reject any or all of the recommendations referred to the Minister under clause 101(2)(a); and

(b) for any recommendation that the Minister rejects, whether to accept an alternative recommendation referred to the Minister under clause 101(2)(b).

(2) In making a decision under subclause (1), the Minister—

(a) may take into account only those considerations that the independent hearings panel could have taken into account when making its recommendation; but

(b) may have regard to—

(i) whether the specified territorial authority has complied with the procedural requirements, including time frames, required by the direction made under section 80L; and

(ii) whether and, if so, how the independent hearings panel has had regard to that direction; and

(iii) whether and, if so, how the specified territorial authority and the independent hearings panel have had regard to the statement of expectations (if any) included in that direction.

(3) Once the Minister has made decisions under subclause (1), the Minister must, as soon as practicable, notify the specified territorial authority in writing of those decisions and the Minister's reasons for making them.

(4) Subclause (5) applies if the Minister decides that they wish to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error.

(5) The Minister may notify the recommendation to the specified territorial authority as accepted, but only if, when complying with subclause (3), the Minister sets out the alterations to the recommendation.

(6) A recommendation to which subclause (4) applies must, for all purposes, be treated as an accepted recommendation.

(7) On the notification under clause 106(1) of the Minister's decisions,—

(a) the recommendations of the independent hearings panel referred to the Minister under clause 101(2) (as accepted or altered by the Minister's decisions) are incorporated into the district plan that has been subject to the ISPP; and

(b) the plan (as altered by those recommendations)—

(i) is deemed to have been approved by the territorial authority under clause 17(1); and

(ii) becomes operative in accordance with clause 20.

Schedule 1 clause 105: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 106 Notification of Minister's decisions

(1) Once the Minister has notified a specified territorial authority under clause 105(3) of decisions made under clause 105(1), the specified territorial authority must publicly notify those decisions.

(2) The specified territorial authority must publicly notify the Minister's decisions made under clause 105(1) in a way that sets out the following information:

(a) each recommendation referred to the Minister under clause 101(2)(a) that the Minister accepts; and

(b) each recommendation referred to the Minister under clause 101(2)(a) that the Minister rejects and the reasons for doing so; and

(c) any alternative recommendation referred to the Minister under clause 101(2)(b) that the Minister has accepted for a rejected recommendation.

(3) Subclause (4) applies if the Minister has, in accordance with clause 105(4), accepted a recommendation but altered it.

(4) The specified territorial authority must, when complying with subclause (2),—

(a) notify the recommendation as accepted; and

(b) set out the alterations to the recommendation.

(5) Not later than 5 working days after the Minister's decisions under clause 105(1) are publicly notified, the specified territorial authority must serve the public notice on every person who made a submission on the IPI.

(6) The specified territorial authority must also—

(a) make a copy of the public notice and the decisions under clause 105(1) publicly available—

(i) on an Internet site maintained by or on behalf of the territorial authority; and

(ii) in physical form at all of the territorial authority's offices and all public libraries in its district; and

(b) include with the notice a statement of the places where a copy of the decisions are available; and

(c) send or provide, on request, a copy of the decisions within 3 working days after the request is received.

Schedule 1 clause 106: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

*Appeals and judicial review*

Heading: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 107 Scope of appeal rights

There is no right of appeal under this Act against any decision or action of the Minister, a specified territorial authority, or any other person under this Part.

Schedule 1 clause 107: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 108 Judicial review

Nothing in this Part limits or affects any right of judicial review a person may have in respect of any matter to which this Part applies.

Schedule 1 clause 108: inserted, on 21 December 2021, by section 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

# Schedule 1AA
# Incorporation of documents by reference in national environmental standards, national policy statements, and New Zealand coastal policy statements

s 46B

Schedule 1AA: inserted, on 10 August 2005, by section 130 of the Resource Management Amendment Act 2005 (2005 No 87).

## 1 Incorporation of documents by reference

(1) The following written material may be incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement:

(a) standards, requirements, or recommended practices of international or national organisations:

(b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:

(c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the national environmental standard, national policy statement, or New Zealand coastal policy statement.

(2) Material may be incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the standard or statement.

(3) Material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement has legal effect as part of the standard or statement.

(4) Any material or documents that may be incorporated by reference under this schedule may be in electronic form, and may include any electronic tools, models, and databases that are appropriate for inclusion in a national environmental standard, a national policy statement, or a New Zealand coastal policy statement.

(5) A requirement to provide a copy of any material or document incorporated by reference under this schedule is satisfied if an electronic copy is provided.

Schedule 1AA clause 1: inserted, on 10 August 2005, by section 130 of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1AA clause 1(4): inserted, on 19 April 2017, by section 120 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1AA clause 1(5): inserted, on 19 April 2017, by section 120 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 2 Effect of amendments to, or replacement of, material incorporated by reference

(1) An amendment to, or replacement of, material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement has legal effect as part of the standard or statement only if the Minister publishes a notice under subclause (2).

(2) The Minister may publish a notice that—

(a) states that subclause (1) applies to the national environmental standard, national policy statement, or New Zealand coastal policy statement; and

(b) specifies the date on which subclause (1) applies to the standard or statement.

(3) Subclause (1) does not apply if the national environmental standard, national policy statement, or New Zealand coastal policy statement expressly says that it does not apply.

(4) A notice under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this clause** | | |
|---|---|---|
| **Publication** | The maker must publish it in the *Gazette* | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019 | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Schedule 1AA clause 2: inserted, on 10 August 2005, by section 130 of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1AA clause 2(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1AA clause 2(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 3 Proof of material incorporated by reference

(1) A copy of material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement including any amendment to, or replacement of, the material (**material**), must be—

(a) certified as a correct copy of the material by the chief executive of the Ministry for the Environment; and

(b) retained by the Ministry.

(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation of the material in the national environmental standard, national policy statement, or New Zealand coastal policy statement.

Schedule 1AA clause 3: inserted, on 10 August 2005, by section 130 of the Resource Management Amendment Act 2005 (2005 No 87).

### 4 Effect of expiry of material incorporated by reference

(1) Material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement that expires or that is revoked or that ceases to have effect ceases to have legal effect as part of the standard or statement only if the Minister publishes a notice under subclause (2).

(2) The Minister may publish a notice that—

(a) states that subclause (1) applies to the national environmental standard, national policy statement, or New Zealand coastal policy statement; and

(b) specifies the date on which subclause (1) applies to the standard or statement.

(3) Subclause (1) does not apply if the national environmental standard, national policy statement, or New Zealand coastal policy statement expressly says that it does not apply.

(4) A notice under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

| **Legislation Act 2019 requirements for secondary legislation made under this clause** | | |
|---|---|---|
| **Publication** | The maker must publish it in the *Gazette* | LA19 ss 73, 74(1)(a), Sch 1 cl 14 |
| **Presentation** | It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019 | LA19 s 114, Sch 1 cl 32(1)(a) |
| **Disallowance** | It may be disallowed by the House of Representatives | LA19 ss 115, 116 |

*This note is not part of the Act.*

Schedule 1AA clause 4: inserted, on 10 August 2005, by section 130 of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1AA clause 4(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1AA clause 4(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 5 Access to material incorporated by reference

(1) The Ministry for the Environment—

(a) must make the material referred to in subclause (2) (**material**) available for inspection during working hours at the offices of the Ministry; and

(b) must make copies of the material available for purchase at the offices of the Ministry; and

(c) may make copies of the material available in any other way that the chief executive of the Ministry considers appropriate in the circum-

stances (for example, on an Internet website maintained by the Ministry); and

(d) must give public notice stating that—

(i) the material is incorporated in the national environmental standard, national policy statement, or New Zealand coastal policy statement; and

(ii) the material is available for inspection during working hours free of charge and the place at which it can be inspected; and

(iii) copies of the material can be purchased and the place at which they can be purchased; and

(iv) if copies of the material are available under paragraph (c), details of how and where it may be obtained or accessed.

(2) The material referred to in subclause (1) is—

(a) material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement:

(b) any amendment to, or replacement of, that material that is incorporated in the standard or statement or the material referred to in paragraph (a) with the amendments or replacement material incorporated:

(c) if the material referred to in paragraph (a) or paragraph (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.

Schedule 1AA clause 5: inserted, on 10 August 2005, by section 130 of the Resource Management Amendment Act 2005 (2005 No 87).

# Schedule 1A
# Preparation and change of regional coastal plans providing for aquaculture activities

*[Repealed]*

s 64

Schedule 1A: repealed, on 1 October 2011, by section 61 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

# Schedule 2
# Matters that may be provided for in policy statements and plans

*[Repealed]*

ss 62, 67, 75

Schedule 2: repealed, on 1 August 2003, by section 93 of the Resource Management Amendment Act 2003 (2003 No 23).

# Schedule 3
# Water quality classes

s 69

Note: The standards listed for each class apply after reasonable mixing of any contaminant or water with the receiving water and disregard the effect of any natural perturbations that may affect the water body.

### 1 Class AE Water (being water managed for aquatic ecosystem purposes)

(1) The natural temperature of the water shall not be changed by more than 3° Celsius.

(2) The following shall not be allowed if they have an adverse effect on aquatic life:

(a) any pH change:

(b) any increase in the deposition of matter on the bed of the water body or coastal water:

(c) any discharge of a contaminant into the water.

(3) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.

(4) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

### 2 Class F Water (being water managed for fishery purposes)

(1) The natural temperature of the water—

(a) shall not be changed by more than 3° Celsius; and

(b) shall not exceed 25° Celsius.

(2) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.

(3) Fish shall not be rendered unsuitable for human consumption by the presence of contaminants.

### 3 Class FS Water (being water managed for fish spawning purposes)

(1) The natural temperature of the water shall not be changed by more than 3° Celsius. The temperature of the water shall not adversely affect the spawning of the specified fish species during the spawning season.

(2) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.

(3) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

### 4 Class SG Water (being water managed for the gathering or cultivating of shellfish for human consumption)

(1) The natural temperature of the water shall not be changed by more than 3° Celsius.

(2) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.

(3) Aquatic organisms shall not be rendered unsuitable for human consumption by the presence of contaminants.

### 5 Class CR Water (being water managed for contact recreation purposes)

(1) The visual clarity of the water shall not be so low as to be unsuitable for bathing.

(2) The water shall not be rendered unsuitable for bathing by the presence of contaminants.

(3) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

### 6 Class WS Water (being water managed for water supply purposes)

(1) The pH of surface waters shall be within the range 6.0–9.0 units.

(2) The concentration of dissolved oxygen in surface waters shall exceed 5 grams per cubic metre.

(3) The water shall not be rendered unsuitable for treatment (equivalent to coagulation, filtration, and disinfection) for human consumption by the presence of contaminants.

(4) The water shall not be tainted or contaminated so as to make it unpalatable or unsuitable for consumption by humans after treatment (equivalent to coagulation, filtration, and disinfection), or unsuitable for irrigation.

(5) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

### 7 Class I Water (being water managed for irrigation purposes)

(1) The water shall not be tainted or contaminated so as to make it unsuitable for the irrigation of crops growing or likely to be grown in the area to be irrigated.

(2) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

### 8 Class IA Water (being water managed for industrial abstraction)

(1) The quality of the water shall not be altered in those characteristics which have a direct bearing upon its suitability for the specified industrial abstraction.

(2) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

### 9 Class NS Water (being water managed in its natural state)

The natural quality of the water shall not be altered.

### 10 Class A Water (being water managed for aesthetic purposes)

The quality of the water shall not be altered in those characteristics which have a direct bearing upon the specified aesthetic values.

### 11 Class C Water (being water managed for cultural purposes)

The quality of the water shall not be altered in those characteristics which have a direct bearing upon the specified cultural or spiritual values.

# Schedule 3A
# MDRS to be incorporated by specified territorial authorities

s 77G

Schedule 3A: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## Part 1
## General

Schedule 3A Part 1: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 1 Interpretation

(1) In this schedule, unless the context otherwise requires,—

**construction** includes construction and conversion, and additions and alterations to an existing building

**density standard** means a standard setting out requirements relating to building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to streets, or landscaped area for the construction of a building

**subdivision** means the subdivision of land, as defined in section 218(1).

(2) Terms used in this schedule that are defined in section 77F have the same meaning in this schedule as they do in that section.

(3) Terms used in this schedule that are defined in the national planning standards have the same meaning in this schedule as they do in those standards.

Schedule 3A clause 1: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 2 Permitted activities

(1) It is a permitted activity to construct or use a building if it complies with the density standards in the district plan (once incorporated as required by section 77G).

(2) There must be no other density standards included in a district plan additional to those set out in Part 2 of this schedule relating to a permitted activity for a residential unit or building.

Schedule 3A clause 2: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 3 Subdivision as controlled activity

Subdivision requirements must (subject to section 106) provide for as a controlled activity the subdivision of land for the purpose of the construction and use of residential units in accordance with clauses 2 and 4.

Schedule 3A clause 3: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 4 Restricted discretionary activities

A relevant residential zone must provide for as a restricted discretionary activity the construction and use of 1 or more residential units on a site if they do not comply with the building density standards in the district plan (once incorporated as required by section 77G).

Schedule 3A clause 4: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 5 Certain notification requirements precluded

(1) Public notification of an application for resource consent is precluded if the application is for the construction and use of 1, 2, or 3 residential units that do not comply with 1 or more of the density standards (except for the standard in clause 10) in the district plan (once incorporated as required by section 77G).

(2) Public and limited notification of an application for resource consent is precluded if the application is for the construction and use of 4 or more residential units that comply with the density standards (except for the standard in clause 10) in the district plan (once incorporated as required by section 77G).

(3) Public and limited notification of an application for a subdivision resource consent is precluded if the subdivision is associated with an application for the construction and use of residential units described in subclause (1) or (2).

Schedule 3A clause 5: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 6 Objectives and policies

(1) A territorial authority must include the following objectives in its district plan:

*Objective 1*

(a) a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future:

*Objective 2*

(b) a relevant residential zone provides for a variety of housing types and sizes that respond to—

(i) housing needs and demand; and

(ii) the neighbourhood's planned urban built character, including 3-storey buildings.

(2) A territorial authority must include the following policies in its district plan:

*Policy 1*

(a) enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments:

*Policy 2*

(b) apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga):

*Policy 3*

(c) encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance:

*Policy 4*

(d) enable housing to be designed to meet the day-to-day needs of residents:

*Policy 5*

(e) provide for developments not meeting permitted activity status, while encouraging high-quality developments.

Schedule 3A clause 6: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### *Subdivision requirements*

Heading: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 7 General subdivision requirements

Any subdivision provisions (including rules and standards) must be consistent with the level of development permitted under the other clauses of this schedule, and provide for subdivision applications as a controlled activity.

Schedule 3A clause 7: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 8 Further rules about subdivision requirements

Without limiting clause 7, there must be no minimum lot size, shape size, or other size-related subdivision requirements for the following:

(a) any allotment with an existing residential unit, if—

(i) either the subdivision does not increase the degree of any non-compliance with the density standards in the district plan (once incorporated as required by section 77G) or land use consent has been granted; and

(ii) no vacant allotments are created:

(b) any allotment with no existing residential unit, where a subdivision application is accompanied by a land use application that will be determined concurrently if the applicant for the resource consent can demonstrate that—

(i) it is practicable to construct on every allotment within the proposed subdivision, as a permitted activity, a residential unit; and

(ii) each residential unit complies with the density standards in the district plan (once incorporated as required by section 77G); and

(iii) no vacant allotments are created.

Schedule 3A clause 8: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 9 Rules about common walls

For the purposes of clause 8(a)(i), if a subdivision is proposed between residential units that share a common wall, the requirements as to height in relation to boundary in the district plan (once incorporated as required in section 77G) do not apply along the length of the common wall.

Schedule 3A clause 9: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## Part 2
## Density standards

Schedule 3A Part 2: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

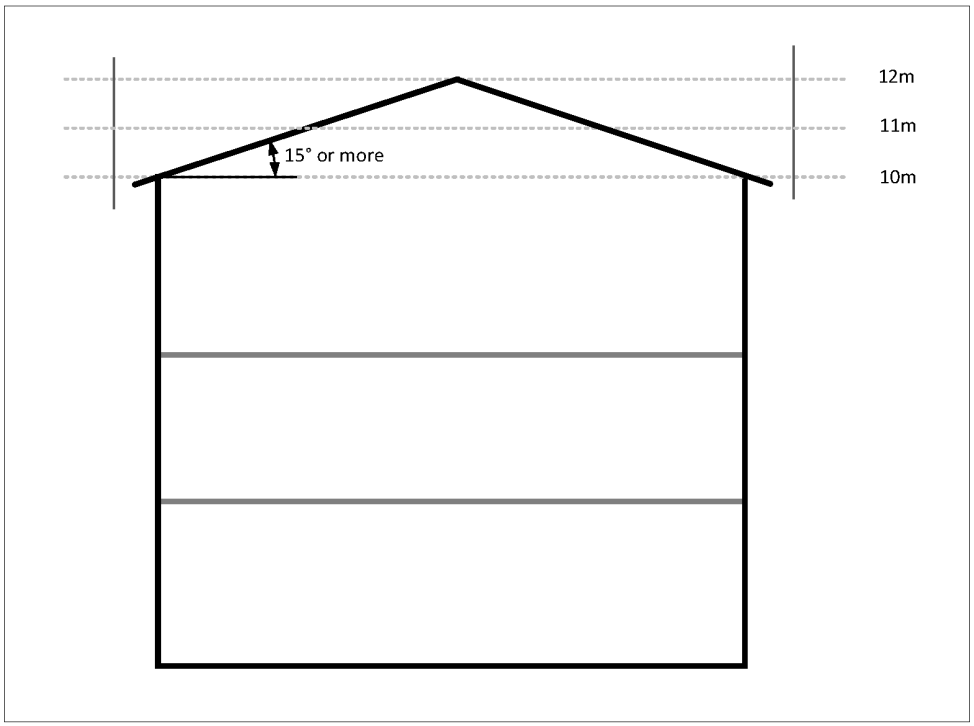
### 10 Number of residential units per site

There must be no more than 3 residential units per site.

Schedule 3A clause 10: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 11 Building height

Buildings must not exceed 11 metres in height, except that 50% of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1 metre, where the entire roof slopes 15° or more, as shown on the following diagram:

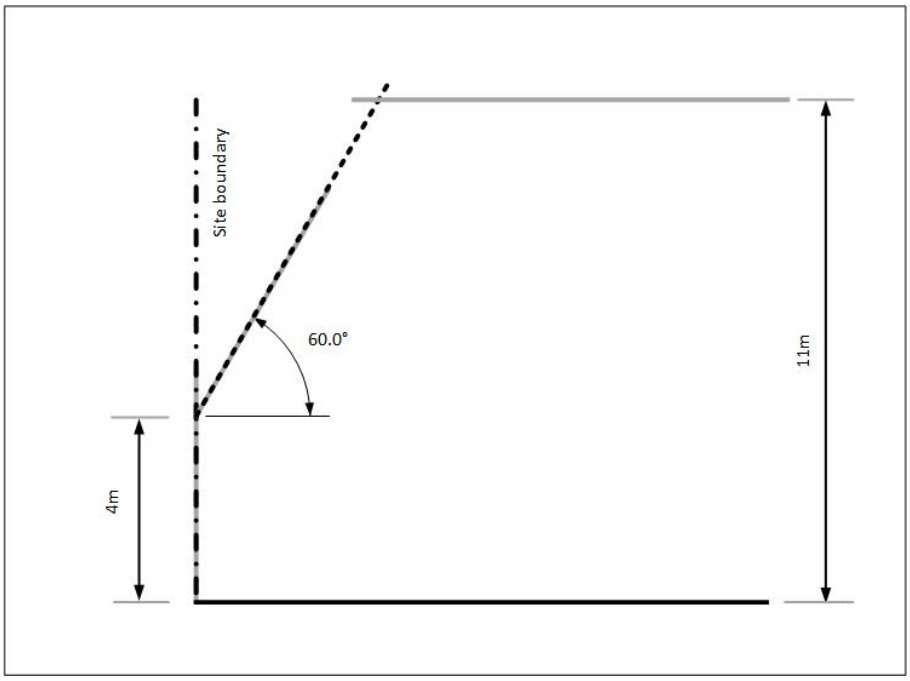



Schedule 3A clause 11: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## 12 Height in relation to boundary

(1) Buildings must not project beyond a 60° recession plane measured from a point 4 metres vertically above ground level along all boundaries, as shown on the following diagram. Where the boundary forms part of a legal right of way, entrance strip, access site, or pedestrian access way, the height in relation to

boundary applies from the farthest boundary of that legal right of way, entrance strip, access site, or pedestrian access way.




(2) This standard does not apply to—

(a) a boundary with a road:

(b) existing or proposed internal boundaries within a site:

(c) site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.

Schedule 3A clause 12: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

## 13 Setbacks

(1) Buildings must be set back from the relevant boundary by the minimum depth listed in the yards table below:

| Yard | Minimum depth |
|---|---|
| Front | 1.5 metres |
| Side | 1 metre |
| Rear | 1 metre (excluded on corner sites) |

(2) This standard does not apply to site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.

Schedule 3A clause 13: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 14 Building coverage

The maximum building coverage must not exceed 50% of the net site area.

Schedule 3A clause 14: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 15 Outdoor living space (per unit)

(1) A residential unit at ground floor level must have an outdoor living space that is at least 20 square metres and that comprises ground floor, balcony, patio, or roof terrace space that,—

(a) where located at ground level, has no dimension less than 3 metres; and

(b) where provided in the form of a balcony, patio, or roof terrace, is at least 8 square metres and has a minimum dimension of 1.8 metres; and

(c) is accessible from the residential unit; and

(d) may be—

(i) grouped cumulatively by area in 1 communally accessible location; or

(ii) located directly adjacent to the unit; and

(e) is free of buildings, parking spaces, and servicing and manoeuvring areas.

(2) A residential unit located above ground floor level must have an outdoor living space in the form of a balcony, patio, or roof terrace that—

(a) is at least 8 square metres and has a minimum dimension of 1.8 metres; and

(b) is accessible from the residential unit; and

(c) may be—

(i) grouped cumulatively by area in 1 communally accessible location, in which case it may be located at ground level; or

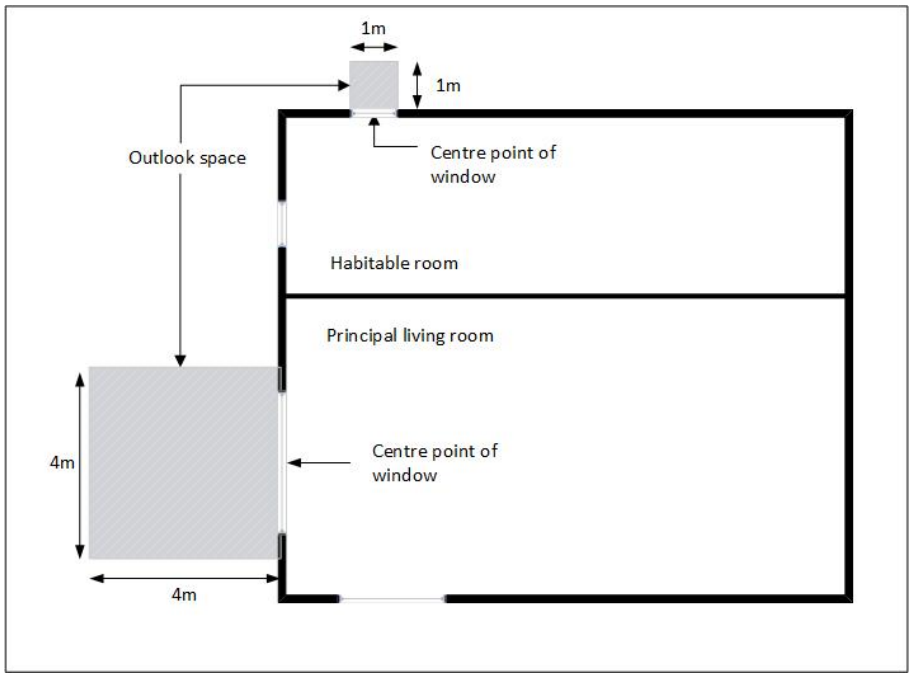
(ii) located directly adjacent to the unit.

Schedule 3A clause 15: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 16 Outlook space (per unit)

(1) An outlook space must be provided for each residential unit as specified in this clause.

(2) An outlook space must be provided from habitable room windows as shown in the diagram below:




(3) The minimum dimensions for a required outlook space are as follows:

(a) a principal living room must have an outlook space with a minimum dimension of 4 metres in depth and 4 metres in width; and

(b) all other habitable rooms must have an outlook space with a minimum dimension of 1 metre in depth and 1 metre in width.

(4) The width of the outlook space is measured from the centre point of the largest window on the building face to which it applies.

(5) Outlook spaces may be over driveways and footpaths within the site or over a public street or other public open space.

(6) Outlook spaces may overlap where they are on the same wall plane in the case of a multi-storey building.

(7) Outlook spaces may be under or over a balcony.

(8) Outlook spaces required from different rooms within the same building may overlap.

(9) Outlook spaces must—

(a) be clear and unobstructed by buildings; and

(b) not extend over an outlook space or outdoor living space required by another dwelling.

Schedule 3A clause 16: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 17 Windows to street

Any residential unit facing the street must have a minimum of 20% of the street-facing façade in glazing. This can be in the form of windows or doors.

Schedule 3A clause 17: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 18 Landscaped area

(1) A residential unit at ground floor level must have a landscaped area of a minimum of 20% of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.

(2) The landscaped area may be located on any part of the development site, and does not need to be associated with each residential unit.

Schedule 3A clause 18: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

# Schedule 3B
# Policies 3, 4, and 5 of National Policy Statement on Urban Development 2020 (as amended by section 77S(1) of the Act)

ss 2(1), 77S(1)

Schedule 3B: inserted, on 21 December 2021, by section 17 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

**Policy 3**: In relation to tier 1 urban environments, regional policy statements and district plans enable:

(a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and

(b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and

(c) building heights of at least 6 storeys within at least a walkable catchment of the following:

  (i) existing and planned rapid transit stops:

  (ii) the edge of city centre zones:

  (iii) the edge of metropolitan centre zones; and

(d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and density of urban form commensurate with the level of commercial activities and community services.

**Policy 4**: Regional policy statements and district plans applying to tier 1 urban environments modify the relevant building height or density requirements under Policy 3 only to the extent necessary (as specified in subpart 6) to accommodate a qualifying matter in that area.

**Policy 5**: Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

(a) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or

(b) relative demand for housing and business use in that location.

# Schedule 4
# Information required in application for resource consent

s 88, Schedule 1

Schedule 4: replaced, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

## 1 Information must be specified in sufficient detail

Any information required by this schedule, including an assessment under clause 2(1)(f) or (g), must be specified in sufficient detail to satisfy the purpose for which it is required.

Schedule 4 clause 1: replaced, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

## 1AA

*[Repealed]*

Schedule 4 clause 1AA: repealed, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

## 1A Matters to be included in assessment of effects on environment

*[Repealed]*

Schedule 4 clause 1A: repealed, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

## 2 Information required in all applications

(1) An application for a resource consent for an activity (the **activity**) must include the following:

- (a) a description of the activity:
- (b) a description of the site at which the activity is to occur:
- (c) the full name and address of each owner or occupier of the site:
- (d) a description of any other activities that are part of the proposal to which the application relates:
- (e) a description of any other resource consents required for the proposal to which the application relates:
- (f) an assessment of the activity against the matters set out in Part 2:
- (g) an assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b).

(2) The assessment under subclause (1)(g) must include an assessment of the activity against—

- (a) any relevant objectives, policies, or rules in a document; and
- (b) any relevant requirements, conditions, or permissions in any rules in a document; and

(c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).

(3) An application must also include an assessment of the activity's effects on the environment that—

(a) includes the information required by clause 6; and

(b) addresses the matters specified in clause 7; and

(c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

Schedule 4 clause 2: replaced, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

### 3 Additional information required in some applications

An application must also include any of the following that apply:

(a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1)):

(b) if the application is affected by section 124 or 165ZH(1)(c) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of section 104(2A)):

(c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of section 104(2B)).

Schedule 4 clause 3: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

### 4 Additional information required in application for subdivision consent

An application for a subdivision consent must also include information that adequately defines the following:

(a) the position of all new boundaries:

(b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan:

(c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips:

(d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips:

(e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A:

(f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under section 237A):

(g) the locations and areas of land to be set aside as new roads.

Schedule 4 clause 4: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

### 5 Additional information required in application for reclamation

An application for a resource consent for reclamation must also include information to show the area to be reclaimed, including the following:

(a) the location of the area:

(b) if practicable, the position of all new boundaries:

(c) any part of the area to be set aside as an esplanade reserve or esplanade strip.

Schedule 4 clause 5: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

## *Assessment of environmental effects*

Heading: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

### 6 Information required in assessment of environmental effects

(1) An assessment of the activity's effects on the environment must include the following information:

(a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:

(b) an assessment of the actual or potential effect on the environment of the activity:

(c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:

(d) if the activity includes the discharge of any contaminant, a description of—

(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(ii) any possible alternative methods of discharge, including discharge into any other receiving environment:

(e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:

(f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:

(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:

(h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).

(2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

(3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—

(a) oblige the applicant to consult any person; or

(b) create any ground for expecting that the applicant will consult any person.

Schedule 4 clause 6: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 4 clause 6(1)(c): amended, on 19 April 2017, by section 121(a) of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 7 Matters that must be addressed by assessment of environmental effects

(1) An assessment of the activity's effects on the environment must address the following matters:

(a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:

(b) any physical effect on the locality, including any landscape and visual effects:

(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:

(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:

(e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:

(f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

(2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

Schedule 4 clause 7: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 4 clause 7(1)(f): amended, on 19 April 2017, by section 121(b) of the Resource Legislation Amendment Act 2017 (2017 No 15).

# Schedule 5
# Provisions applying in respect of the Hazards Control Commission

*[Repealed]*

s 350

Schedule 5: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

# Schedule 6
# Enactments repealed

s 361(1)

**Atomic Energy Amendment Act 1957 (1957 No 12) (RS Vol 1, p 199)**
*Amendment(s) incorporated in the Act(s).*

**Clean Air Act 1972 (1972 No 31) (RS Vol 24, p 127)**

**Clean Air Amendment Act 1982 (1982 No 31) (RS Vol 24, p 192)**

**Clean Air Amendment Act 1986 (1986 No 79) (RS Vol 24, p 195)**

**Clean Air Amendment Act 1987 (1987 No 22) (RS Vol 24, p 196)**

**Clean Air Amendment Act 1988 (1988 No 180) (RS Vol 24, p 199)**

**Clutha Development (Clyde Dam) Empowering Act 1982 (1982 No 20)**

**Clutha Development (Clyde Dam) Empowering Amendment Act 1988 (1988 No 56)**

**Geothermal Energy Amendment Act 1957 (1957 No 51) (Reprinted 1975, Vol 3, p 2035)**

**Geothermal Energy Amendment Act 1966 (1966 No 50) (Reprinted 1975, Vol 3, p 2035)**

**Geothermal Energy Amendment Act 1973 (1973 No 64) (Reprinted 1975, Vol 3, p 2036)**

**Geothermal Energy Amendment Act 1977 (1977 No 89)**

**Harbours Amendment Act 1981 (1981 No 72)**

**Hawke's Bay Rivers Act 1919 (1919 No 22 (L))**

**Hawke's Bay Rivers Amendment Act 1920 (1920 No 3 (L))**

**Hawke's Bay Rivers Amendment Act 1930 (1930 No 16 (L))**

**Hawke's Bay Rivers Amendment Act 1932–33 (1932–33 No 9 (L))**

**Hawke's Bay Rivers Amendment Act 1933 (1933 No 15 (L))**

**Hawke's Bay Rivers Amendment Act 1934–35 (1934–35 No 3 (L))**

**Hawke's Bay Rivers Amendment Act 1936 (1936 No 9 (L))**

**Iron and Steel Industry Act 1959 (1959 No 100) (RS Vol 9, p 199)**

**Iron and Steel Industry Amendment Act 1965 (1965 No 130) (RS Vol 9, p 187)**

**Kumara Sludge Channel Act 1889 (1889 No 19 (L))**

**Marine Farming Amendment Act 1975 (1975 No 51) (RS Vol 22, p 747)**

**Marine Farming Amendment Act 1976 (1976 No 147) (RS Vol 22, p 748)**

**Marine Farming Amendment Act 1977 (1977 No 188) (RS Vol 22, p 749)**

**Marine Farming Amendment Act 1983 (1983 No 17) (RS Vol 22, p 749)**

**Marine Farming Amendment Act 1987 (1987 No 36) (RS Vol 22, p 750)**

**Noise Control Act 1982 (1982 No 140)**

**Noise Control Amendment Act 1987 (1987 No 84)**

**Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915 (1915 No 68) (RS Vol 11, p 551)**

*Amendment(s) incorporated in the Act(s).*

**Reserves and Other Lands Disposal and Public Bodies Empowering Act 1917 (1917 No 26) (RS Vol 11, p 552)**

*Amendment(s) incorporated in the Act(s).*

**Sand Drift Act 1908 (1908 No 169) (RS Vol 11, p 315)**

**Statutes Amendment Act 1945 (1945 No 40) (RS Vol 11, p 554)**

*Amendment(s) incorporated in the Act(s).*

**Town and Country Planning Act 1977 (1977 No 121) (RS Vol 16, p 521)**

**Town and Country Planning Amendment Act 1980 (1980 No 167) (RS Vol 16, p 650)**

**Town and Country Planning Amendment Act 1983 (1983 No 149) (RS Vol 16, p 653)**

**Town and Country Planning Amendment Act 1987 (1987 No 69)**

**Town and Country Planning Amendment Act 1988 (1988 No 44)**

**Town and Country Planning Amendment Act (No 2) 1988 (1988 No 214)**

**Waihou and Ohinemuri Rivers Improvement Act 1910 (1910 No 37 (L)) (Reprinted 1931, Vol 4, p 582)**

**Waihou and Ohinemuri Rivers Improvement Amendment Act 1958 (1958 No 101)**

**Waitohi River Bed Act 1889 (1889 No 15 (L))**

**Water and Soil Conservation Act 1967 (1967 No 135) (RS Vol 17, p 783)**

**Water and Soil Conservation Amendment Act 1968 (1968 No 117) (RS Vol 17, p 856)**

**Water and Soil Conservation Amendment Act 1969 (1969 No 114) (RS Vol 17, p 857)**

**Water and Soil Conservation Amendment Act 1971 (1971 No 24) (RS Vol 17, p 857)**

**Water and Soil Conservation Amendment Act (No 2) 1971 (1971 No 154) (RS Vol 17, p 873)**

**Water and Soil Conservation Amendment Act 1972 (1972 No 114) (RS Vol 17, p 876)**

**Water and Soil Conservation Amendment Act 1973 (1973 No 24) (RS Vol 17, p 877)**

**Water and Soil Conservation Amendment Act 1974 (1974 No 137) (RS Vol 17, p 887)**

**Water and Soil Conservation Amendment Act 1976 (1976 No 164) (RS Vol 17, p 889)**

**Water and Soil Conservation Amendment Act 1980 (1980 No 153) (RS Vol 17, p 889)**

**Water and Soil Conservation Amendment Act 1981 (1981 No 123) (RS Vol 17, p 890)**

**Water and Soil Conservation Amendment Act 1983 (1983 No 151) (RS Vol 17, p 891)**

**Water and Soil Conservation Amendment Act 1987 (1987 No 203)**

**Water and Soil Conservation Amendment Act 1988 (1988 No 47)**

**Water and Soil Conservation Amendment Act 1990 (1990 No 17)**

**Woodville Borough Drainage Empowering Act 1910 (1910 No 28 (L))**

# Schedule 7
# Regulations and orders revoked

s 361(2)

**Clean Air Act Schedules Order 1982 (SR 1982/278)**

**Clean Air Act (Smoke) Regulations 1975 (SR 1975/52)**

**Clean Air (Licensing) Regulations 1973 (SR 1973/303)**

**Clean Air (Licensing) Regulations 1973, Amendment No 1 (SR 1983/45)**

**Clean Air (Licensing) Regulations 1973, Amendment No 2 (SR 1987/17)**

**Clean Air Zone (Christchurch) Order 1977 (SR 1977/172)**

**Clean Air Zone (Christchurch) Order 1977, Amendment No 1 (SR 1979/258)**

**Clean Air Zone (Christchurch) Order 1977, Amendment No 2 (SR 1981/70)**

**Clean Air Zone (Christchurch) Order 1977, Amendment No 3 (SR 1982/247)**

**Clean Air Zone (Christchurch) Order 1977, Amendment No 4 (SR 1988/97)**

**Clean Air Zones (Canterbury Region) Order 1984 (SR 1984/81)**

**Clean Air Zones (Canterbury Region) Order 1984, Amendment No 1 (SR 1988/98)**

**Soil Conservation Regulations 1945 (SR 1945/32)**

**Town and Country Planning Regulations 1978 (SR 1978/130)**

**Town and Country Planning Regulations 1978, Amendment No 1 (SR 1981/104)**

**Town and Country Planning Regulations 1978, Amendment No 2 (SR 1988/191)**

**Water and Soil Conservation Regulations 1968 (SR 1968/181)**

**Water and Soil Conservation Regulations 1968, Amendment No 1 (SR 1970/56)**

**Water and Soil Conservation Regulations 1968, Amendment No 2 (SR 1978/36)**

# Schedule 8
# Enactments amended

s 362

## Part 1
## Amendments to Acts

**Airport Authorities Act 1966 (1966 No 51) (RS Vol 17, p 1)**
*Amendment(s) incorporated in the Act(s).*

**Atomic Energy Act 1945 (1945 No 41) (RS Vol 1, p 189)**
*Amendment(s) incorporated in the Act(s).*

**Conservation Act 1987 (1987 No 65)**
*Amendment(s) incorporated in the Act(s).*

**Conservation Law Reform Act 1990 (1990 No 31)**
*Amendment(s) incorporated in the Act(s).*

**Environment Act 1986 (1986 No 127)**
*Amendment(s) incorporated in the Act(s).*

**Fire Service Act 1975 (1975 No 42)**
*Amendment(s) incorporated in the Act(s).*

**Fisheries Act 1983 (1983 No 14)**
*Amendment(s) incorporated in the Act(s).*

**Forest and Rural Fires Act 1977 (1977 No 52) (RS Vol 23, p 407)**
*Amendment(s) incorporated in the Act(s).*

**Forestry Encouragement Act 1962 (1962 No 20) (RS Vol 17, p 213)**
*Amendment(s) incorporated in the Act(s).*

**Gas Act 1982 (1982 No 27)**
*Amendment(s) incorporated in the Act(s).*

**Geothermal Energy Act 1953 (1953 No 102)**
*Amendment(s) incorporated in the Act(s).*

**Harbours Act 1950 (1950 No 34)**
*Amendment(s) incorporated in the Act(s).*

**Historic Places Act 1980 (1980 No 16)**
*Amendment(s) incorporated in the Act(s).*

**Housing Act 1955 (1955 No 51) (RS Vol 7, p 297)**
*Amendment(s) incorporated in the Act(s).*

**Income Tax Act 1976 (1976 No 65)**
*Amendment(s) incorporated in the Act(s).*

**Irrigation Schemes Act 1990 (1990 No 52)**
*Amendment(s) incorporated in the Act(s).*

**Lake Wanaka Preservation Act 1973 (1973 No 107) (RS Vol 24, p 363)**
*Amendment(s) incorporated in the Act(s).*

**Land Act 1948 (1948 No 64)**
*Amendment(s) incorporated in the Act(s).*

**Land Drainage Act 1908 (1908 No 96)**
*Amendment(s) incorporated in the Act(s).*

**Land Settlement Promotion and Land Acquisition Act 1952 (1952 No 34)**
*Amendment(s) incorporated in the Act(s).*

**Land Transfer Act 1952 (1952 No 52) (RS Vol 22, p 531)**
*Amendment(s) incorporated in the Act(s).*

**Legal Aid Act 1969 (1969 No 47)**
*Amendment(s) incorporated in the Act(s).*

**Local Authorities Loans Act 1956 (1956 No 63)**
*Amendment(s) incorporated in the Act(s).*

**Local Government Act 1974 (1974 No 66)**
*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1978 (1978 No 43)**
*Amendment(s) incorporated in the Act(s).*

**Local Government Official Information and Meetings Act 1987 (1987 No 174)**
*Amendment(s) incorporated in the Act(s).*

**Maori Affairs Act 1953 (1953 No 94)**
*Amendment(s) incorporated in the Act(s).*

**Marine Farming Act 1971 (1971 No 29)**
*Amendment(s) incorporated in the Act(s).*

**Marine Pollution Act 1974 (1974 No 14)**
*Amendment(s) incorporated in the Act(s).*

**Ministry of Energy (Abolition) Act 1989 (1989 No 140)**
*Amendment(s) incorporated in the Act(s).*

**National Development Act Repeal Act 1986 (1986 No 122)**
*Amendment(s) incorporated in the Act(s).*

**National Parks Act 1980 (1980 No 66)**
*Amendment(s) incorporated in the Act(s).*

**New Zealand Railways Corporation Act 1981 (1981 No 119)**
*Amendment(s) incorporated in the Act(s).*

**New Zealand Railways Corporation Restructuring Act 1990 (1990 No 105)**
*Amendment(s) incorporated in the Act(s).*

**Official Information Act 1982 (1982 No 156)**
*Amendment(s) incorporated in the Act(s).*

**Ombudsmen Act 1975 (1975 No 9)**
*Amendment(s) incorporated in the Act(s).*

**Property Law Act 1952 (1952 No 51)**
*Amendment(s) incorporated in the Act(s).*

**Public Bodies Leases Act 1969 (1969 No 141) (RS Vol 18, p 621)**
*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44)**
*Amendment(s) incorporated in the Act(s).*

**Public Works Act 1981 (1981 No 35)**
*Amendment(s) incorporated in the Act(s).*

**Rating Powers Act 1988 (1988 No 97)**
*Amendment(s) incorporated in the Act(s).*

**Reserves Act 1977 (1977 No 66)**
*Amendment(s) incorporated in the Act(s).*

**Reserves and Other Lands Disposal Act 1940 (1940 No 13)**

*Amendment(s) incorporated in the Act(s).*

**River Boards Act 1908 (1908 No 165) (RS Vol 10, p 765)**

*Amendment(s) incorporated in the Act(s).*

**Soil Conservation and Rivers Control Act 1941 (1941 No 12)**

*Amendment(s) incorporated in the Act(s).*

**Soil Conservation and Rivers Control Amendment Act 1959 (1959 No 48)**

*Amendment(s) incorporated in the Act(s).*

**Stamp and Cheque Duties Act 1971 (1971 No 51)**

*Amendment(s) incorporated in the Act(s).*

**State-Owned Enterprises Act 1986 (1986 No 124)**

*Amendment(s) incorporated in the Act(s).*

**Synthetic Fuels Plant (Effluent Disposal) Empowering Act 1983 (1983 No 38)**

*Amendment(s) incorporated in the Act(s).*

**Tasman Pulp and Paper Company Enabling Act 1954 (1954 No 83)**

*Amendment(s) incorporated in the Act(s).*

**Transit New Zealand Act 1989 (1989 No 75)**

*Amendment(s) incorporated in the Act(s).*

**Unit Titles Act 1972 (1972 No 15)**

*Amendment(s) incorporated in the Act(s).*

**Valuation of Land Act 1951 (1951 No 19)**

*Amendment(s) incorporated in the Act(s).*

**Whakatane Paper Mills, Limited, Water-Supply Empowering Act 1936 (1936 No 7 (P))**

*Amendment(s) incorporated in the Act(s).*

## Part 2
## Regulations amended

**Geothermal Energy Regulations 1961 (SR 1961/124)**

*Amendment(s) incorporated in the regulations.*

### Geothermal Energy Regulations 1961, Amendment No 2 (SR 1987/73)

*Amendment(s) incorporated in the regulations.*

# Schedule 9
# Special Acts under which local authorities and other public bodies exercise functions, powers, and duties

s 363

**Ashley River Improvement Act 1925 (1925 No 41)**

**Auckland Metropolitan Drainage Act 1944 (1944 No 8 (L))**

**Auckland Metropolitan Drainage Act 1960 (1960 No 15 (L))**

**Christchurch District Drainage Act 1951 (1951 No 21 (L))**

**Dunedin Waterworks Extension Act 1875 (1875 No 5 (P))**

**Dunedin Waterworks Extension Act 1930 (1930 No 7 (L))**

**Dunedin Waterworks (Silverstream Supply) Extension Act 1945 (1945 No 6 (L))**

**Dunedin Waterworks (Taieri River Supply) Extension Act 1951 (1951 No 16 (L))**

**Ellesmere Lands Drainage Act 1905 (1905 No 59)**

**Eltham Borough Drainage and Water Supply Empowering Act 1905 (1905 No 4 (L))**

**Eltham Drainage Board Act 1914 (1914 No 13 (L))**

**Hawera Borough Drainage Empowering Act 1900 (1900 No 21 (L))**

**Kaituna River District Act 1926 (1926 No 19 (L))**

**Lake Wanaka Preservation Act 1973 (1973 No 107)**

**Lakes District Waterways Authority (Shotover River) Empowering Act 1985 (1985 No 2 (L))**

**Makerua Drainage Board Empowering Act 1952 (1952 No 8 (L))**

**Makerua Drainage Board Loan Empowering Act 1927 (1927 No 13 (L))**

**Manawatu-Oroua River District Act 1923 (1923 No 5 (L))**

**North Shore Boroughs (Auckland) Water Conservation Act 1944 (1944 No 3 (L))**

**North Shore Drainage Act 1963 (1963 No 15 (L))**

**Oxford Road District Act 1905 (1905 No 37 (L))**

**Rangitaiki Land Drainage Act 1956 (1956 No 34)**

### South Canterbury Catchment Board Act 1946 (1946 No 10 (L))

### South Wairarapa River Board Empowering Act 1931 (1931 No 4 (L))

### Southland Land Drainage Act 1935 (1935 No 13 (L))

### Springs County Council Reclamation and Empowering Act 1913 (1913 No 10 (L))

### Springs County Council Reclamation and Empowering Act 1915 (1915 No 15 (L))

### Summit Road (Canterbury) Protection Act 1963 (1963 No 16 (L))

### Taieri River Improvement Act 1920 (1920 No 20 (L))

### Taupiri Drainage and River Board Empowering Act 1936 (1936 No 1 (L))

### Taupiri Drainage and River District Act 1929 (1929 No 23)

### Tumu-Kaituna Drainage Board Empowering Act 1928 (1928 No 16 (L))

### Waimakariri River Improvement Act 1922 (1922 No 22 (L))

### Wairau River Board Empowering Act 1934 (1934 No 8 (L))

### Wanganui River Trust Act 1891 (1891 No 19 (L))

### Wellington Regional Water Board Act 1972 (1972 No 3 (L))

Schedule 9 **Dunedin District Drainage and Sewerage Act 1900**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Dunedin Waterworks Extension Act 1901**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Hutt River Improvement and Reclamation Act 1922**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Judea Land Drainage Board Empowering Act 1921**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Kaikoura River Board Validating Act 1953**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Lower Clutha River Improvement Act 1938**: repealed, on 16 September 1994, by section 22(1)(c) of the Otago Regional Council (Kuriwao Endowment Lands) Act 1994 (1994 No 4 (L)).

Schedule 9 **Reporoa Drainage Board Empowering Act 1947**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Te Ore Ore River Board Rating Act 1934**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 9 **Wairau River District Loans Act 1922**: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

# Schedule 10
# Requirements for instruments creating esplanade strips and access strips

ss 232(2)(a), (4)(a), 237B(2)(c), 237C(1), 338(3)(c)

Schedule 10: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

## 1 Prohibitions to be included in instruments

(1) Every instrument creating an esplanade strip and every easement for an access strip shall specify that the following acts are prohibited on land over which the esplanade strip or access strip has been created:

(a) wilfully endangering, disturbing, or annoying any lawful user (including the land owner or occupier) of the strip:

(b) wilfully damaging or interfering with any structure adjoining or on the land, including any building, fence, gate, stile, marker, bridge, or notice:

(c) wilfully interfering with or disturbing any livestock lawfully permitted on the strip.

(2) Notwithstanding subclause (1), the prohibitions in paragraphs (b) and (c) shall not apply to the owner or occupier.

(3) For the purposes of this schedule, **owner** and **occupier** includes any employees or agents authorised by the owner or occupier.

Schedule 10 clause 1: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

## 2 Other prohibitions

Subject to sections 232(4) and 237B(3), every instrument creating an esplanade strip and every easement for an access strip shall specify that the following acts are prohibited on the land over which the esplanade strip or access strip has been created:

(a) lighting any fire:

(b) carrying any firearm:

(c) discharging or shooting any firearm:

(d) camping:

(e) taking any animal on to, or having charge of any animal on, the land:

(f) taking any vehicle on to, or driving or having charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised):

(g) wilfully damaging or removing any plant (unless acting in accordance with the Biosecurity Act 1993):

(h) laying any poison or setting any snare or trap (unless acting in accordance with the Biosecurity Act 1993).

Schedule 10 clause 2: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 10 clause 2(g): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 10 clause 2(h): amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### 3 Fencing

The instrument or easement may include any fencing requirements, including gates, stiles, and the repositioning or removal of any fence.

Schedule 10 clause 3: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

### 4 Access on esplanade strips for conservation purposes

(1) Where an esplanade strip is created for the protection of conservation values only, the instrument creating the strip may specify that—

(a) no person shall enter or remain on the strip; or

(b) only specified persons shall enter or remain on the strip—

subject to any other provisions of the instrument.

(2) Subclause (1) does not apply to the owner or occupier of the land over which the strip is created.

Schedule 10 clause 4: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

### 5 Access on strips for access purposes

Where an easement for an access strip or an esplanade strip for access purposes is created, the easement or instrument creating the strip shall specify that any person shall have the right, at any time, to pass and repass over and along the land over which the strip has been created, subject to any other provisions of the easement or instrument.

Schedule 10 clause 5: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

### 6 Access on strips created for recreational purposes

Where an esplanade strip is created for public recreational use, the instrument creating the strip shall specify that any person shall have the right, at any time, to enter upon the land over which the esplanade strip has been created and remain on that land for any period of time for the purpose of recreation, subject to any other provisions of the instrument.

Schedule 10 clause 6: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

## 7 Closure

(1) Any instrument creating an esplanade strip or any easement for an access strip may specify that the strip may be closed for any specified period, including particular times and dates.

(2) Any instrument or easement may specify who is responsible for notifying the public by signs erected at all entry points to the strip, and any other means agreed, that a strip or easement is closed as a result of closure periods specified in the instrument or easement.

Schedule 10 clause 7: inserted, on 7 July 1993, by section 228 of the Resource Management Amendment Act 1993 (1993 No 65).

# Schedule 11
# Acts that include statutory acknowledgements

ss 95E, 274

Schedule 11: inserted, on 1 October 1998, by section 226 of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Schedule 11 heading: amended, on 1 October 2009, by section 150 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008

Ahuriri Hapū Claims Settlement Act 2021

Heretaunga Tamatea Claims Settlement Act 2018

Hineuru Claims Settlement Act 2016

Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018

Maraeroa A and B Blocks Claims Settlement Act 2012

Maungaharuru-Tangitū Hapū Claims Settlement Act 2014

Moriori Claims Settlement Act 2021

Ngaa Rauru Kiitahi Claims Settlement Act 2005

Ngāi Tahu Claims Settlement Act 1998

Ngāi Tai ki Tāmaki Claims Settlement Act 2018

Ngai Tāmanuhiri Claims Settlement Act 2012

NgāiTakoto Claims Settlement Act 2015

Ngāruahine Claims Settlement Act 2016

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014

Ngāti Apa (North Island) Claims Settlement Act 2010

Ngāti Awa Claims Settlement Act 2005

Ngāti Hauā Claims Settlement Act 2014

Ngāti Hinerangi Claims Settlement Act 2021

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014

Ngāti Koroki Kahukura Claims Settlement Act 2014

Ngāti Kuri Claims Settlement Act 2015

Ngāti Mākino Claims Settlement Act 2012

Ngāti Manawa Claims Settlement Act 2012

Ngāti Manuhiri Claims Settlement Act 2012

Ngāti Maru (Taranaki) Claims Settlement Act 2022

Ngāti Mutunga Claims Settlement Act 2006

Ngāti Pāhauwera Treaty Claims Settlement Act 2012

Ngati Porou Claims Settlement Act 2012

Ngāti Pūkenga Claims Settlement Act 2017

Ngāti Rangi Claims Settlement Act 2019

Ngāti Rangiteaorere Claims Settlement Act 2014

Ngāti Rangitihi Claims Settlement Act 2022

Ngāti Rangiwewehi Claims Settlement Act 2014

Ngati Ruanui Claims Settlement Act 2003

Ngati Tama Claims Settlement Act 2003

Ngāti Tamaoho Claims Settlement Act 2018

Ngati Toa Rangatira Claims Settlement Act 2014

Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005

Ngāti Tūwharetoa Claims Settlement Act 2018

Ngāti Whare Claims Settlement Act 2012

Ngāti Whātua o Kaipara Claims Settlement Act 2013

Ngāti Whātua Ōrākei Claims Settlement Act 2012

Ngatikahu ki Whangaroa Claims Settlement Act 2017

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009

Pouakani Claims Settlement Act 2000

Rangitāne o Manawatu Claims Settlement Act 2016

Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017

Raukawa Claims Settlement Act 2014

Rongowhakaata Claims Settlement Act 2012

Tapuika Claims Settlement Act 2014

Taranaki Iwi Claims Settlement Act 2016

Te Arawa Lakes Settlement Act 2006

Te Atiawa Claims Settlement Act 2016

Te Aupouri Claims Settlement Act 2015

Te Kawerau ā Maki Claims Settlement Act 2015

Te Rarawa Claims Settlement Act 2015

Te Roroa Claims Settlement Act 2008

Te Uri o Hau Claims Settlement Act 2002

Waitaha Claims Settlement Act 2013

Schedule 11 Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008: inserted, on 4 June 2009, by section 48 of the Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008 (2008 No 98).

Schedule 11 Ahuriri Hapū Claims Settlement Act 2021: inserted, on 14 December 2021, by section 45(2) of the Ahuriri Hapū Claims Settlement Act 2021 (2021 No 54).

Schedule 11 Heretaunga Tamatea Claims Settlement Act 2018: inserted, on 27 June 2018, by section 34(2) of the Heretaunga Tamatea Claims Settlement Act 2018 (2018 No 14).

Schedule 11 Hineuru Claims Settlement Act 2016: inserted, on 5 July 2016, by section 46(2) of the Hineuru Claims Settlement Act 2016 (2016 No 33).

Schedule 11 Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018: inserted, on 14 September 2018, by section 40(2) of the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 (2018 No 28).

Schedule 11 Maraeroa A and B Blocks Claims Settlement Act 2012: inserted, on 31 July 2012, by section 36 of the Maraeroa A and B Blocks Claims Settlement Act 2012 (2012 No 52).

Schedule 11 Maungaharuru-Tangitū Hapū Claims Settlement Act 2014: inserted, on 17 April 2014, by section 50 of the Maungaharuru-Tangitū Hapū Claims Settlement Act 2014 (2014 No 12).

Schedule 11 Moriori Claims Settlement Act 2021: inserted, on 26 November 2021, by section 40(2) of the Moriori Claims Settlement Act 2021 (2021 No 49).

Schedule 11 Ngaa Rauru Kiitahi Claims Settlement Act 2005: inserted, on 28 June 2005, by section 57 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005 (2005 No 84).

Schedule 11 Ngāi Tai ki Tāmaki Claims Settlement Act 2018: inserted, on 5 July 2018, by section 86(2) of the Ngāi Tai ki Tāmaki Claims Settlement Act 2018 (2018 No 18).

Schedule 11 Ngai Tāmanuhiri Claims Settlement Act 2012: inserted, on 1 August 2012, by section 40 of the Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55).

Schedule 11 NgāiTakoto Claims Settlement Act 2015: inserted, on 23 September 2015, by section 119(2) of the NgāiTakoto Claims Settlement Act 2015 (2015 No 78).

Schedule 11 Ngāruahine Claims Settlement Act 2016: inserted, on 6 December 2016, by section 42(2) of the Ngāruahine Claims Settlement Act 2016 (2016 No 93).

Schedule 11 Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014: inserted, on 23 April 2014, by section 52 of the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014 (2014 No 19).

Schedule 11 Ngāti Apa (North Island) Claims Settlement Act 2010: inserted, on 16 December 2010, by section 41 of the Ngāti Apa (North Island) Claims Settlement Act 2010 (2010 No 129).

Schedule 11 Ngāti Awa Claims Settlement Act 2005: inserted, on 25 March 2005, by section 58 of the Ngāti Awa Claims Settlement Act 2005 (2005 No 28).

Schedule 11 Ngāti Hauā Claims Settlement Act 2014: inserted, on 16 December 2014, by section 43(2) of the Ngāti Hauā Claims Settlement Act 2014 (2014 No 75).

Schedule 11 Ngāti Hinerangi Claims Settlement Act 2021: inserted, on 13 April 2021, by section 47(2) of the Ngāti Hinerangi Claims Settlement Act 2021 (2021 No 11).

Schedule 11 Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014: inserted, on 23 April 2014, by section 55 of the Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014 (2014 No 20).

Schedule 11 Ngāti Koroki Kahukura Claims Settlement Act 2014: inserted, on 16 December 2014, by section 34(2) of the Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74).

Schedule 11 Ngāti Kuri Claims Settlement Act 2015: inserted, on 23 September 2015, by section 121(2) of the Ngāti Kuri Claims Settlement Act 2015 (2015 No 76).

Schedule 11 Ngāti Mākino Claims Settlement Act 2012: inserted, on 1 August 2012, by section 36 of the Ngāti Mākino Claims Settlement Act 2012 (2012 No 53).

Schedule 11 Ngāti Manawa Claims Settlement Act 2012: inserted, on 6 April 2012, by section 54 of the Ngāti Manawa Claims Settlement Act 2012 (2012 No 27).

Schedule 11 Ngāti Manuhiri Claims Settlement Act 2012: inserted, on 20 November 2012, by section 41 of the Ngāti Manuhiri Claims Settlement Act 2012 (2012 No 90).

Schedule 11 Ngāti Maru (Taranaki) Claims Settlement Act 2022: inserted, on 31 March 2022, by section 42(2) of the Ngāti Maru (Taranaki) Claims Settlement Act 2022 (2022 No 9).

Schedule 11 Ngāti Mutunga Claims Settlement Act 2006: inserted, on 22 November 2006, by section 62 of the Ngāti Mutunga Claims Settlement Act 2006 (2006 No 61).

Schedule 11 Ngāti Pāhauwera Treaty Claims Settlement Act 2012: inserted, on 6 April 2012, by section 79 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 (2012 No 30).

Schedule 11 Ngati Porou Claims Settlement Act 2012: inserted, on 6 April 2012, by section 56 of the Ngati Porou Claims Settlement Act 2012 (2012 No 31).

Schedule 11 Ngāti Pūkenga Claims Settlement Act 2017: inserted, on 15 August 2017, by section 41(2) of the Ngāti Pūkenga Claims Settlement Act 2017 (2017 No 39).

Schedule 11 Ngāti Rangi Claims Settlement Act 2019: inserted, on 1 August 2019, by section 39(2) of the Ngāti Rangi Claims Settlement Act 2019 (2019 No 40).

Schedule 11 Ngāti Rangiteaorere Claims Settlement Act 2014: inserted, on 17 April 2014, by section 44 of the Ngāti Rangiteaorere Claims Settlement Act 2014 (2014 No 13).

Schedule 11 Ngāti Rangitihi Claims Settlement Act 2022: inserted, on 19 March 2022, by section 40(2) of the Ngāti Rangitihi Claims Settlement Act 2022 (2022 No 7).

Schedule 11 Ngāti Rangiwewehi Claims Settlement Act 2014: inserted, on 17 April 2014, by section 46 of the Ngāti Rangiwewehi Claims Settlement Act 2014 (2014 No 14).

Schedule 11 Ngati Ruanui Claims Settlement Act 2003: inserted, on 6 May 2003, by section 107 of the Ngati Ruanui Claims Settlement Act 2003 (2003 No 20).

Schedule 11 Ngati Tama Claims Settlement Act 2003: inserted, on 26 November 2003, by section 71 of the Ngati Tama Claims Settlement Act 2003 (2003 No 126).

Schedule 11 Ngāti Tamaoho Claims Settlement Act 2018: inserted, on 11 July 2018, by section 41(2) of the Ngāti Tamaoho Claims Settlement Act 2018 (2018 No 19).

Schedule 11 Ngati Toa Rangatira Claims Settlement Act 2014: inserted, on 23 April 2014, by section 39 of the Ngati Toa Rangatira Claims Settlement Act 2014 (2014 No 17).

Schedule 11 Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005: inserted, on 24 May 2005, by section 63 of the Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005 (2005 No 72).

Schedule 11 Ngāti Tūwharetoa Claims Settlement Act 2018: inserted, on 19 December 2018, by section 47(2) of the Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55).

Schedule 11 Ngāti Whare Claims Settlement Act 2012: inserted, on 6 April 2012, by section 62 of the Ngāti Whare Claims Settlement Act 2012 (2012 No 28).

Schedule 11 Ngāti Whātua o Kaipara Claims Settlement Act 2013: inserted, on 13 June 2013, by section 71 of the Ngāti Whātua o Kaipara Claims Settlement Act 2013 (2013 No 37).

Schedule 11 Ngāti Whātua Ōrākei Claims Settlement Act 2012: inserted, on 1 February 2013, by section 41 of the Ngāti Whātua Ōrākei Claims Settlement Act 2012 (2012 No 91).

Schedule 11 Ngatikahu ki Whangaroa Claims Settlement Act 2017: inserted, on 22 August 2017, by section 40(2) of the Ngatikahu ki Whangaroa Claims Settlement Act 2017 (2017 No 41).

Schedule 11 Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009: inserted, on 5 August 2009, by section 36 of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (2009 No 26).

Schedule 11 Pouakani Claims Settlement Act 2000: inserted, on 1 March 2001, by section 51 of the Pouakani Claims Settlement Act 2000 (2000 No 90).

Schedule 11 Rangitāne o Manawatu Claims Settlement Act 2016: inserted, on 13 December 2016, by section 41(2) of the Rangitāne o Manawatu Claims Settlement Act 2016 (2016 No 100).

Schedule 11 Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017: inserted, on 15 August 2017, by section 40(2) of the Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017 (2017 No 38).

Schedule 11 Raukawa Claims Settlement Act 2014: inserted, on 20 March 2014, by section 41 of the Raukawa Claims Settlement Act 2014 (2014 No 7).

Schedule 11 Rongowhakaata Claims Settlement Act 2012: inserted, on 1 August 2012, by section 43 of the Rongowhakaata Claims Settlement Act 2012 (2012 No 54).

Schedule 11 Tapuika Claims Settlement Act 2014: inserted, on 17 April 2014, by section 45 of the Tapuika Claims Settlement Act 2014 (2014 No 15).

Schedule 11 Taranaki Iwi Claims Settlement Act 2016: inserted, on 6 December 2016, by section 42(2) of the Taranaki Iwi Claims Settlement Act 2016 (2016 No 95).

Schedule 11 Te Arawa Lakes Settlement Act 2006: inserted, on 26 September 2006, by section 70 of the Te Arawa Lakes Settlement Act 2006 (2006 No 43).

Schedule 11 Te Atiawa Claims Settlement Act 2016: inserted, on 6 December 2016, by section 42(2) of the Te Atiawa Claims Settlement Act 2016 (2016 No 94).

Schedule 11 Te Aupouri Claims Settlement Act 2015: inserted, on 23 September 2015, by section 123(2) of the Te Aupouri Claims Settlement Act 2015 (2015 No 77).

Schedule 11 Te Kawerau ā Maki Claims Settlement Act 2015: inserted, on 15 September 2015, by section 40(2) of the Te Kawerau ā Maki Claims Settlement Act 2015 (2015 No 75).

Schedule 11 Te Rarawa Claims Settlement Act 2015: inserted, on 23 September 2015, by section 135(2) of the Te Rarawa Claims Settlement Act 2015 (2015 No 79).

Schedule 11 Te Roroa Claims Settlement Act 2008: inserted, on 30 September 2008, by section 81 of the Te Roroa Claims Settlement Act 2008 (2008 No 100).

Schedule 11 Te Uri o Hau Claims Settlement Act 2002: inserted, on 18 October 2002, by section 74 of Te Uri o Hau Claims Settlement Act 2002 (2002 No 36).

Schedule 11 Waitaha Claims Settlement Act 2013: inserted, on 13 June 2013, by section 40 of the Waitaha Claims Settlement Act 2013 (2013 No 38).

# Schedule 12
# Transitional, savings, and related provisions

s 3B

Schedule 12: replaced, on 4 September 2013, by section 68 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 12 heading: replaced, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 1AA Overview

In addition to the transitional, savings, and related provisions set out in this schedule, other transitional, savings, and related provisions that may apply are those set out in—

(a) Part 15, in relation to the principal Act:

(b) subpart 3 of Part 2 of the Resource Management Amendment Act 2003:

(c) Part 2 of the Resource Management (Energy and Climate Change) Amendment Act 2004:

(d) sections 131 to 135 of the Resource Management Amendment Act 2005:

(e) Part 2 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

Schedule 12 clause 1AA: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## Part 1
## Provisions relating to Resource Management Amendment Act 2013

Schedule 12 Part 1 heading: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 1 Interpretation

In this Part, **amendment Act** means the Resource Management Amendment Act 2013, which amends this Act.

Schedule 12 clause 1: amended, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 2 Existing section 32 applies to some proposed policy statements and plans

If Part 2 of the amendment Act comes into force on or after the date of the last day for making further submissions on a proposed policy statement or plan (as publicly notified in accordance with clause 7(1)(d) of Schedule 1), the further evaluation for that proposed policy statement or plan must be undertaken as if Part 2 had not come into force.

### 3 National policy statements

An amendment made by the amendment Act applies to a national policy statement whether the statement was issued before or after the commencement of the amendment.

### 4 Existing rules providing for protection of trees

(1) An existing rule or part of a rule in a district plan or proposed district plan that complied with section 76(4A) immediately before its amendment by the amendment Act is revoked, without further authority than this clause, on the day that is 24 months after the date on which Part 1 of the amendment Act comes into force.

(2) Subclause (1) applies unless the rule or part of the rule complies with section 76(4A) and (4B) as inserted by the amendment Act.

Schedule 12 clause 4(1): amended, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 5 Certain new rules providing for protection of trees may take effect once plan change notified

(1) Subclause (2) applies if, before the date referred to in clause 4(1),—

(a) a territorial authority has made a rule, or amended a rule, so that it complies with section 76(4A) and (4B) as inserted by the amendment Act; and

(b) the rule has not yet taken effect; but

(c) the proposed plan or change containing the rule has been notified.

(2) The rule has legal effect on and from the date referred to in clause 4(1).

### 6 Proposals of national significance

(1) Subclause (2) relates to the following amendments made by the amendment Act (which relate to proposals of national significance):

(a) the amendments to sections 29 and 39 and to Part 6AA (sections 140 to 149ZE):

(b) the amendment to section 32A made by section 6 of the amendment Act:

(c) the amendment that inserts section 42A(1) and (1AA).

(2) The amendments apply to any matter—

(a) whether it was lodged with a local authority or the EPA, or initiated by a local authority, before or after the commencement of the amendments; and

(b) whether it was referred to or prepared by a board of inquiry before or after the commencement of the amendments.

(3) However, if a request for the Minister to call in a matter was made before the commencement of the amendment that inserts section 142(6A), the request must be determined as if the amendment had not been made.

### 7 Notices of requirement

(1) This clause relates to an amendment made by the amendment Act that affects a requirement for a designation or heritage order.

(2) The requirement must be determined as if the amendment had not been made if, immediately before the commencement of the amendment,—

(a) 1 or more of the following had occurred:

(i) a notice of the requirement had been given under section 168(1) or (2) or 189(1):

(ii) the territorial authority had resolved to publicly notify the requirement under section 168A(1):

(iii) the territorial authority had given notice of the requirement under section 189A(1):

(iv) a requiring authority had given notice of the requirement, and the requirement was for a modified designation, under clause 4 of Schedule 1:

(v) the territorial authority had decided to include the requirement in its proposed district plan under clause 4 of Schedule 1; but

(b) the requirement had not proceeded to the stage at which no further appeal was possible.

(3) Subclauses (1) and (2) also apply as if a requirement to alter a designation or heritage order were a requirement for a designation or heritage order.

(4) This clause is subject to clause 6.

### 8 Applications and matters

(1) Subclause (3) applies to anything specified in subclause (2) that, immediately before the commencement of an amendment made by the amendment Act,—

(a) had been lodged with or initiated by a local authority or a Minister; but

(b) had not proceeded to the stage at which no further appeal was possible.

(2) The things referred to in subclause (1) are—

(a) an application for a resource consent (or anything treated by this Act as if it were an application for a resource consent):

(b) any other matter in relation to a resource consent (or in relation to anything treated by this Act as if it were a resource consent):

(c) an application for a water conservation order under section 201(1):

(d) an application to revoke or amend a water conservation order under section 216(2):

(e) an application or a proposal to vary or cancel an instrument creating an esplanade strip under section 234(1) or (3):

(f) a matter of creating an esplanade strip by agreement under section 235(1).

(3) The application or matter must be determined as if the amendment had not been made.

(4) This clause is subject to clauses 6 and 7.

(5) This clause does not apply to an amendment made by Part 2 of the amendment Act.

### 9 Enforcement proceedings

(1) This clause relates to the amendment made by the amendment Act to section 318 (which relates to the right to be heard in proceedings for an application for an enforcement order).

(2) If an application was made for an enforcement order before the commencement of the amendment, the application must be determined as if the amendment had not been made.

### 10 Return of property

The insertion of section 336 by the amendment Act is to be treated as having commenced on 1 October 2012 and section 336 is to be treated as having had continuous effect despite section 300(6) of the Search and Surveillance Act 2012.

## Part 2
## Provisions relating to Part 1 of Resource Legislation Amendment Act 2017

Schedule 12 Part 2: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 11 Interpretation

In this Part,—

**amendment Act** means Part 1 of the Resource Legislation Amendment Act 2017

**commencement**, in relation to a provision of the amendment Act or an amendment made by that provision, means the date on which that provision comes into force.

Schedule 12 clause 11: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 12 Specified matters subject to transitional arrangements

(1) An amendment made by the amendment Act does not apply in respect of a matter specified in subclause (2) if, immediately before the commencement of the amendment, the matter—

(a) has been lodged with a local authority, the EPA, or a Minister, or called in by the Minister; but

(b) has not proceeded to the stage at which no further appeal is possible.

(2) The matters referred in subclause (1) are—

(a) an application for a resource consent (or anything treated by this Act as if it were an application for a resource consent):

(b) any other matter in relation to a resource consent (or in relation to anything treated by this Act as if it were a resource consent):

(c) a challenge under section 85 in relation to a provision or proposed provision of a plan or proposed plan that would render any land incapable of reasonable use:

(d) an application relating to a nationally significant proposal lodged with the EPA or called in by the Minister under Part 6AA:

(e) a notice of requirement—

(i) for a designation or heritage order; or

(ii) to alter a designation or heritage order:

(f) an application for a water conservation order made under section 201(1) or to amend or revoke an order under section 216(2):

(g) an application or a proposal to vary or cancel an instrument that creates an esplanade strip under section 234(1) or (3):

(h) the creation of an esplanade strip by agreement under section 235(1).

(3) This clause does not limit clauses 13 to 15.

Schedule 12 clause 12: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 13 Proposed policy statement or plans, changes, or variations

(1) This clause applies to a proposed policy statement or plan, change, or variation that, immediately before the commencement of a relevant amendment made by the amendment Act,—

(a) has been publicly notified under clause 5 or 26(b) of Schedule 1; but

(b) has not proceeded to the stage at which no further appeal is possible.

(2) The proposed policy statement, plan, change, or variation must be determined as if the amendments made by the amendment Act had not been enacted.

Schedule 12 clause 13: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 14 Transitional arrangements for early use of collaborative process

(1) A collaborative planning process may be used in accordance with this clause if, before the commencement of subpart 4 of Part 5 (which provides for the use of a collaborative planning process), a local authority—

(a) has commenced preparing, changing, or reviewing a policy statement or plan; but

(b) has not publicly notified the proposed policy statement or plan or change under Part 1 of this schedule.

(2) If a local authority wishes to use a collaborative process in the circumstances set out in subclause (1), the local authority must—

(a) publicly notify its intention to apply to the Minister for approval to continue its process of preparing or changing a policy statement or plan using the collaborative planning process under this Part; and

(b) invite submissions, to be submitted within 20 working days of the notice, on the proposal to use the collaborative planning process; and

(c) submit to the Minister a summary of the submissions and a report setting out how the collaborative planning process meets the criteria set out in subclause (3).

(3) The criteria are as follows:

(a) whether there has been a clear intention to set up a collaborative group and appoint its members:

(b) whether the composition of the collaborative group reflects the requirements set out in clause 40 of Schedule 1:

(c) whether the commitment of the local authority to the consensus of the collaborative group is consistent with the requirement of clause 46(2)(a) of Schedule 1:

(d) whether the terms of reference for the collaborative group are consistent with the terms of reference required by clause 41 of Schedule 1.

(4) After considering any submissions and the report submitted under subclause (2)(c), the Minister—

(a) may accept the application if the Minister is satisfied that the local authority meets the criteria set out in subclause (3), but must otherwise reject the application; and

(b) if the Minister accepts the application, must notify that decision to the local authority not later than 2 months after the date of the application.

(5) If the Minister accepts the application under subclause (4), the local authority must—

(a) give public notice that the Minister has accepted the local authority's application to continue its process of preparing, changing, or reviewing a policy statement or plan using the collaborative planning process; and

(b) amend the terms of reference in accordance with clause 41 of Schedule 1.

(6) This clause ceases to apply on the date that is 2 years after the commencement of this clause.

Schedule 12 clause 14: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 15 Application to fresh water of rules relating to water quality

Nothing in section 69(4) (as inserted by the amendment Act) affects any plan approved, resource consent granted, or water conservation order made before the commencement of that amendment if that plan, resource consent, or order refers to or incorporates any standards set out in Schedule 3.

Schedule 12 clause 15: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

### 16 Matters before the Environment Court

An amendment made by the amendment Act does not apply to any proceeding lodged with the Environment Court immediately before the commencement of that amendment.

Schedule 12 clause 16: inserted, on 19 April 2017, by section 122 of the Resource Legislation Amendment Act 2017 (2017 No 15).

## Part 3
## Provisions relating to Resource Management Amendment Act 2020

Schedule 12 Part 3: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 17 Interpretation

In this Part,—

**amendment Act** means the Resource Management Amendment Act 2020

**commencement date** means the day after the date on which the amendment Act received the Royal assent.

Schedule 12 clause 17: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 18 Planning instruments relating to freshwater notified after commencement date

(1) This clause applies to the following planning instruments:

(a) a proposed regional plan or regional policy statement for the purpose of giving effect to any national policy statement for freshwater management:

(b) a proposed regional plan or regional policy statement that relates to freshwater but not for the purpose of giving effect to any national policy statement for freshwater management:

(c) a change or variation to a proposed regional plan or regional policy statement if the change or variation—

(i) is for the purpose of giving effect to any national policy statement for freshwater management; or

(ii) relates to freshwater in the manner described in paragraph (b).

(2) A planning instrument to which this clause applies must, if it was publicly notified after the commencement date, undergo the freshwater planning process.

Schedule 12 clause 18: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 19 Planning instruments relating to freshwater notified before commencement

(1) In this clause, **planning instrument** means a proposed regional plan or regional policy statement that—

(a) is for the purpose of giving effect to any national policy statement for freshwater management or otherwise relates to freshwater; and

(b) was publicly notified before the commencement date.

(2) This Act applies to the planning instrument as if the amendment Act had not been enacted.

(3) A variation to a planning instrument must be dealt with as if the amendment Act had not been enacted, regardless of whether—

(a) the variation was publicly notified before or after the commencement date; or

(b) the variation in any way gives effect to any national policy statement for freshwater management.

Schedule 12 clause 19: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 20 Application of sections 120(1A) and (1B) to appeal rights

(1) Section 120(1A) applies only in relation to resource consents lodged on or after the date on which section 37(1) of the amendment Act comes into force.

(2) Section 120(1B) applies only in relation to resource consents lodged on or after the commencement date.

Schedule 12 clause 20: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 21 Conditions that may be imposed on notices of requirement

Sections 149P, 149U, 171, 174, 198E, and 198K, as amended by the amendment Act, apply to notices of requirement given under section 168 or 181 or lodged under section 145 on or after the commencement date.

Schedule 12 clause 21: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 22 New time frames for resource consents relating to emergency work

Section 330B(3), as amended by the amendment Act, applies to an activity if the appropriate consent authority was advised of the activity on or after the commencement date.

Schedule 12 clause 22: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 23 Application of limitation period in section 338(4)

Section 338(4), as amended by the amendment Act, applies to an offence committed on or after the commencement date.

Schedule 12 clause 23: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 24 Performance of EPA enforcement functions

The EPA may, in the performance of its enforcement functions specified in section 343F, take an enforcement action in relation to an incident (within the meaning of section 343E) that occurred or started to occur before, on, or after the commencement date.

Schedule 12 clause 24: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 25 National environmental standards and boards of inquiry

Sections 44, 46A, and 48, as amended by the amendment Act, apply only in respect of—

(a) a board of inquiry appointed under section 47 on or after the commencement date; or

(b) a process established under section 46A(4) on or after the commencement date.

Schedule 12 clause 25: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 26 Transitional effect of climate change amendments

(1) This clause applies to a proposed policy statement or plan, change, or variation that, immediately before the effective date,—

(a) has been publicly notified under clause 5 or 26(1)(b) of Schedule 1; but

(b) has not proceeded to the stage at which no further appeal is possible.

(2) This clause also applies to applications for resource consents that were lodged with a local authority immediately before the effective date.

(3) The proposed policy statement, plan, change, or variation, or resource consent must be determined as if the climate change amendments had not been enacted.

(4) In this clause,—

**climate change amendments** means the amendments made by sections 17 to 21, 35, and 36 of the amendment Act

**effective date** means the date on which the climate change amendments come into force by virtue of section 2(3) and (4) of the amendment Act.

Schedule 12 clause 26: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 27 Transitional effect of amendments to sections 149P and 149U

(1) This clause applies to a matter described in paragraph (a), (b), (c), (d), (e), or (f) of the definition of matter in section 141.

(2) If the matter has been called in under section 142 before the amendments made by sections 52 and 55 of the amendment Act take effect, the matter must be determined as if those amendments had not been made.

Schedule 12 clause 27: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 28 References to clause 10 of Schedule 1 in specified Treaty Settlement legislation

A reference, immediately before the commencement date, to clause 10 of Schedule 1 in the following provisions must, on and from the commencement date, be read as a reference to clauses 10 and 51 of Schedule 1:

(a) sections 13(6)(d) and 46(2)(d) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010:

(b) sections 14(6)(d) and 48(2)(d) of the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010:

(c) section 22(2)(d) of the Nga Wai o Maniapoto (Waipa River) Act 2012.

Schedule 12 clause 28: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 29 Effect of amendments on resource consent applications lodged with local authority or EPA

An amendment made by section 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 99, or 100 of the amendment Act does not affect a resource consent application if, before the date that section came into force (*see* section 2 of the amendment Act), the application was lodged with a local authority or the EPA.

Schedule 12 clause 29: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

### 30 Effect of amendments on notice of intention to review resource consent conditions

(1) An amendment made by section 38 or 39 of the amendment Act does not affect a notice of intention to review resource consent conditions if, before the date that section came into force (*see* section 2 of the amendment Act), the notice was served on a consent holder.

(2) In this clause, a **notice of intention to review resource consent conditions** means a notice under section 128.

Schedule 12 clause 30: inserted, on 1 July 2020, by section 104 of the Resource Management Amendment Act 2020 (2020 No 30).

## Part 4
## Provisions relating to Legislation Act 2019

Schedule 12 Part 4: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 31 Local authority recognition of national planning standards

(1) Section 58I(3)(b) and (7)(b), as in force immediately before the main commencement date, continues to apply in relation to a national planning standard that was notified in the *Gazette* before the main commencement date.

(2) In this clause, **main commencement date** means the date on which section 10 of the Legislation (Repeals and Amendments) Act 2019 (which repeals the Legislation Act 2012) comes into force.

Schedule 12 clause 31: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## Part 5
## Provisions relating to Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

Schedule 12 Part 5: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 32 Interpretation

In this Part,—

**Amendment Act** means the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

**commencement date** means the following:

(a) in the case of a tier 2 or tier 3 territorial authority, the date on which the applicable regulations made under section 80I(1) or 80K(1), as the case may be, commence:

(b) in the case of all other specified territorial authorities, the day after the date on which the Amendment Act receives the Royal assent

**tier 2 or tier 3 territorial authority** means the following:

(a) a tier 2 territorial authority required to prepare and notify an IPI by regulations made under section 80I(1):

(b) a tier 3 territorial authority required to prepare and notify an IPI by regulations made under section 80K(1).

Schedule 12 clause 32: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 33 Status of notified proposed district plan of specified territorial authority

(1) This clause applies if a specified territorial authority has notified a proposed district plan before the commencement date and the proposed district plan is not operative at the commencement date.

(2) The specified territorial authority—

(a) is not required to notify a plan change to its district plan to incorporate the MDRS into any relevant residential zone or to give effect to policies 3 and 4, or policy 5, as the case requires, of the NPS-UD; but

(b) must notify a single variation to its proposed district plan to incorporate the MDRS and give effect to policies 3 and 4, or policy 5, as the case requires, of the NPS-UD, by whichever of the following dates is applicable:

(i) in the case of a tier 2 territorial authority required to notify an IPI by regulations made under section 80I(1), on or before the date specified in those regulations, if those regulations are required by section 80I(2) to specify a notification date:

(ii) in the case of a tier 3 territorial authority required to notify an IPI, on or before the date specified in regulations made under section 80K(1):

(iii) in the case of all other specified territorial authorities, on or before 20 August 2022.

(3) The variation referred to in subclause (2)(b)—

(a) is the specified territorial authority's IPI required to be notified in accordance with section 80F; and

(b) must use the ISPP to incorporate the MDRS and give effect to policy 3 or 5, as the case requires, of the NPS-UD; and

(c) must ensure that the specified territorial authority can carry out its functions under sections 77G(1) and 77N(1); and

(d) may include—

(i) any provision that is proposed to be included in a residential zone; and

(ii) any other provision that is proposed to be included in a non-residential urban zone, where that zone is giving effect to the intensification policies in accordance with section 77N; and

(iii) any changes consequential on, or necessary to give effect to, the variation.

(4) A variation referred to in subsection (3)(a) must be treated as if it had been notified in accordance with section 80F, and the applicable provisions of this Act enacted by the Amendment Act apply to the variation accordingly.

(5) To avoid doubt, section 86B applies to rules notified in the variation.

Schedule 12 clause 33: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 34 Status of partly completed proposed plan changes modifying relevant residential zone

(1) This clause applies to any plan change that is proposing or requesting changes to a relevant residential zone or a new residential zone if—

(a) the plan change has been notified by a specified territorial authority before the commencement date, but decisions on submissions on that plan change have not been notified in accordance with clause 10 of Schedule 1 before that date; and

(b) the plan change has not been withdrawn; and

(c) the MDRS is not already being incorporated through any proposed rules.

(2) The specified territorial authority must notify a variation to the plan change at the same time that it notifies the IPI to incorporate the MDRS as required by section 77G(3).

(3) However, the variation does not merge with the specified territorial authority's IPI but must be processed at the same time as the IPI, using the ISPP.

(4) The variation must incorporate the MDRS into all areas within the scope of the plan change that are a relevant residential zone or a new residential zone.

(5) The variation may only include those uses referred to in section 80G(1)(b).

(6) The variation may be declined or withdrawn only if it is no longer required for the plan change to meet the requirements of section 77G(1).

(7) The variation must use the ISPP to incorporate the MDRS.

(8) For the avoidance of doubt,—

(a) section 86B does not apply to any rules notified in the variation:

(b) this clause applies only in relation to the district of a specified territorial authority.

Schedule 12 clause 34: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 35 Some private plan change requests may rely on IPI to incorporate MDRS

(1) This clause applies to any plan change request to change a district plan—

(a) that is made to a specified territorial authority under clause 21 of Schedule 1 before the specified territorial authority has notified its IPI in accordance with section 80F; and

(b) to which clause 34 does not apply; and

(c) that requests the creation of a new residential zone that proposes to adopt all the zone provisions of a relevant residential zone but does not amend the provisions in the relevant residential zone.

(2) Despite clause 25(4A) of Schedule 1, a specified territorial authority may accept or adopt the request and incorporate the MDRS for the new residential zone through the IPI.

(3) A specified territorial authority may decline the request under clause 25(4) of Schedule 1 or apply the rest of clause 25 of that schedule, as the case requires.

Schedule 12 clause 35: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 36 Limits on appeals

(1) To avoid doubt, clause 107 of Schedule 1 (which states that there is no right of appeal against decisions made under Part 6 of Schedule 1) only applies to—

(a) the variation to the proposed district plan notified in accordance with clause 33(2)(b) and not the underlying proposed district plan:

(b) the variation to the plan change notified in accordance with clause 34(2) and not the underlying plan change.

(2) Subclause (1) does not affect any other right of appeal.

Schedule 12 clause 36: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

### 37 Plan change or private plan change notified before commencement

(1) Subclause (2) applies to a plan change or private plan change that, before the commencement date,—

(a) was notified; and

(b) was the subject of a decision under clause 10 of Schedule 1 that was publicly notified.

(2) If this subclause applies, the plan change or private plan change may proceed as if the Amendment Act had not been enacted.

Schedule 12 clause 37: inserted, on 21 December 2021, by section 18(a) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

# Resource Management Amendment Act 2003

| | |
|---|---|
| Public Act | 2003 No 23 |
| Date of assent | 19 May 2003 |
| Commencement | see section 2 |

### 1 Title

(1) This Act is the Resource Management Amendment Act 2003.

(2) In this Act, the Resource Management Act 1991 is called "the principal Act".

### 2 Commencement

(1) Sections 18 to 23 come into force on the day after the date on which this Act receives the Royal assent.

(2) The rest of this Act comes into force on 1 August 2003.

## Part 2
## Amendments and repeals of other enactments, transitional provisions, and savings

### Subpart 3—Transitional and savings provisions

### 109 Transitional provisions relating to New Zealand coastal policy statements

Despite sections 62(3), 67(2), and 75(2) of the principal Act (as substituted by this Act), a regional policy statement or a plan in force on the date of the commencement of this section does not need to give effect to a New Zealand coastal policy statement, but must not be inconsistent with it.

### 110 Transitional provisions for restricted discretionary activities

If on the date of commencement of this section a plan or proposed plan includes any rule specifying an activity as a discretionary activity and restricting any discretion under section 68(3B) or section 76(3B) of the principal Act, an application for that activity must be treated as an application for a restricted discretionary activity.

### 111 Transitional provisions for certain rules

Despite sections 68(5)(e) and 76(4)(e) of the principal Act (as repealed and substituted by this Act), a rule included in accordance with those provisions before the commencement of this section is to be treated as if those provisions had not been repealed and substituted.

### 112 Continuation and completion of matters under principal Act

(1) If, before the commencement of this section,—

(a) an application has been made for a resource consent or for any matter in relation to a resource consent (including a change or review of conditions of an existing consent); or

(b) a notice of requirement has been given for a designation or a heritage order; or

(c) an application has been made to become a requiring authority or a heritage protection authority; or

(d) a policy statement, plan, change, or variation has been publicly notified,—

the continuation and completion of that matter (including any rights of appeal) must be in accordance with the principal Act as if this Act had not been enacted.

(2) If, before the commencement of this section, an appeal has been lodged or an objection made, the continuation and completion of that appeal or objection must be in accordance with the principal Act as if this Act had not been enacted.

(3) If, before the commencement of this section, an application for a subdivision consent has been made, the continuation and completion of all proceedings in relation to that subdivision, including the approval and deposit of a survey plan, must be in accordance with the principal Act as if this Act had not been enacted.

(4) If, before the commencement of this section, a declaration, enforcement, or abatement action under Part 12 of the principal Act had commenced, the continuation and completion of that action (including any appeals) must be in accordance with the principal Act as if this section had not been enacted.

(5) If, before the commencement of this section, a notice of appeal or notice of inquiry has been lodged with the Environment Court, sections 271A and 274 of the principal Act apply as if section 271A had not been repealed, and section 274 had not been repealed and substituted, by this Act.

(6) For the purposes of this section, an appeal includes a reference to, or an inquiry by, the Environment Court.

### 113 Exercise of authority granted under Historic Places Act 1993

(1) An authority given under section 9F, section 9H, or section 9L of the Historic Places Act 1954, or section 44, section 46, or section 48 of the Historic Places Act 1980 that has not been wholly or partially exercised on or before the date of commencement of this section lapses.

(2) An authority given under section 9F, section 9H, or section 9L of the Historic Places Act 1954, or section 44, section 46, or section 48 of the Historic Places Act 1980 that has been partially exercised at the date of commencement of this section may continue to be exercised for a period of 2 years from the date of commencement of this section.

# Resource Management (Energy and Climate Change) Amendment Act 2004

| | |
|---|---|
| Public Act | 2004 No 2 |
| Date of assent | 1 March 2004 |
| Commencement | see section 2 |

### 1 Title

(1) This Act is the Resource Management (Energy and Climate Change) Amendment Act 2004.

(2) In this Act, the Resource Management Act 1991 is called "the principal Act".

## Part 1
## Preliminary provisions

### 2 Commencement

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

### 3 Purpose

The purpose of this Act is to amend the principal Act—

(a) to make explicit provision for all persons exercising functions and powers under the principal Act to have particular regard to—

(i) the efficiency of the end use of energy; and

(ii) the effects of climate change; and

(iii) the benefits to be derived from the use and development of renewable energy; and

(b) to require local authorities—

(i) to plan for the effects of climate change; but

(ii) not to consider the effects on climate change of discharges into air of greenhouse gases.

## Part 2
## Amendments to principal Act and transitional provisions

### 8 Transitional provision relating to applications made before commencement of Act

(1) The matters referred to in subsection (2) must be continued and completed in all respects in accordance with the principal Act as if this Act had not been enacted.

(2) Subsection (1) applies to the following matters, if made or given before the commencement of this Act:

(a) an application for a resource consent:

(b) a notice of requirement for a designation.

(3) For the purposes of subsection (1), an application is made, or a notice is given, on the day on which the local authority receives the application, or the notice is given, in accordance with the requirements of the principal Act.

### 9 Transitional provision relating to rules made before commencement of Act

On the commencement of this Act, an existing rule or part of a rule in a regional plan that controls the discharge into air of greenhouse gases solely for its effects on climate change is revoked.

# Resource Management (Foreshore and Seabed) Amendment Act 2004

| | |
|---|---|
| Public Act | 2004 No 94 |
| Date of assent | 24 November 2004 |
| Commencement | see section 2 |

## 1 Title

(1) This Act is the Resource Management (Foreshore and Seabed) Amendment Act 2004.

(2) In this Act, the Resource Management Act 1991 is called "the principal Act".

## 2 Commencement

(1) This section and sections 3, 13, 27, 28, 33, 34, 35, 42, and 43 come into force on the day after the date on which this Act receives the Royal assent.

(2) The rest of this Act comes into force on 17 January 2005.

## 40 Continuation and completion of applications, etc, under principal Act

(1) This section applies if, before 17 January 2005,—

(a) an application has been made for a resource consent or for any matter in relation to a resource consent (including a change or review of conditions of an existing consent); or

(b) a policy statement, plan, change, or variation has been publicly notified.

(2) The continuation and completion of a matter referred to in subsection (1) must be in accordance with the principal Act as if this Act had not been enacted.

(3) However, a submission, request, or application made under section 85B(1) in relation to a rule in a plan or a proposed plan must be undertaken in accordance with the principal Act as amended by this Act.

## 41 Continuation and completion of appeals, etc, under principal Act

(1) If, before the commencement of this section, an appeal has been lodged or an objection made, the continuation and completion of that appeal or objection must be in accordance with the principal Act as if this Act had not been enacted.

(2) However, an appeal lodged after 17 January 2005 must be determined in accordance with the principal Act as amended by this Act.

(3) If, before 17 January 2005, an application for a subdivision consent has been made, the continuation and completion of all proceedings in relation to that subdivision, including the approval and deposit of a survey plan, must be in accordance with the principal Act as if this Act had not been enacted.

(4) If, before 17 January 2005, a declaration, enforcement, or abatement action under Part 12 of the principal Act has been commenced, the continuation and completion of that action (including any appeals) must be in accordance with the principal Act as if this Act had not been enacted.

### 42 Coastal permits relating to public foreshore and seabed

(1) In this section and section 43, **authorisation** includes, but is not limited to, a leasehold interest in, or a licence to occupy, a specified area of the public foreshore and seabed.

(2) This section and section 43 apply to an activity that is lawfully carried out on or in relation to land in the coastal marine area that,—

(a) before the commencement of section 13(1) of the Foreshore and Seabed Act 2004, was not—

(i) land of the Crown; or

(ii) land vested in a regional council; but

(b) after the commencement of section 13(1) of the Foreshore and Seabed Act 2004, is vested in the Crown by that section.

(3) If an activity is carried out under an authorisation granted by the relevant local authority, as the land owner, to occupy land in, or remove sand, shingle, shell, or other natural material from, the public foreshore and seabed,—

(a) the authorisation must be treated as a coastal permit for the activity granted under the principal Act; and

(b) the same terms and conditions apply as applied under the authorisation; and

(c) the provisions of the principal Act apply.

(4) Despite section 17 of the Foreshore and Seabed Act 2004, a right of renewal under an authorisation referred to in subsection (3) does not apply.

### 43 Activities carried out without authorisation

If an activity that involves an occupation of land in, or the removal of sand, shingle, shell, or other natural material from, the public foreshore and seabed is being carried out without an authorisation granted by the relevant local authority, as the land owner, section 12(2) of the principal Act does not apply until 1 January 2008.

# Resource Management Amendment Act 2005

| | |
|---|---|
| Public Act | 2005 No 87 |
| Date of assent | 9 August 2005 |
| Commencement | see section 2 |

## 1 Title

(1) This Act is the Resource Management Amendment Act 2005.

(2) In this Act, the Resource Management Act 1991 is called "the principal Act".

## 2 Commencement

(1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in subsections (2) to (5).

(2) Section 22(1) comes into force 12 months after the date on which this Act receives the Royal assent.

(3) The following provisions come into force 24 months after the date on which this Act receives the Royal assent:

(a) section 22(2):

(b) section 25(2).

(4) Section 67 comes into force 36 months after the date on which this Act receives the Royal assent.

(5) The following provisions come into force on a date to be appointed by the Governor-General by Order in Council:

(a) section 108:

(b) section 115(2) to (4):

(c) section 117.

## 3 Purpose

The purpose of this Act is to amend the Resource Management Act 1991

(a) to improve the operation of the Act, in particular in relation to—

(i) the achievement of nationally consistent standards through national environmental standards and national policy statements; and

(ii) the making of decisions by consent authorities and the Environment Court; and

(iii) the power of the Minister for the Environment to call in applications for resource consents; and

(iv) the development of policy statements and plans by local authorities; and

(v) consultation with iwi and resource planning by iwi; and

(vi) the allocation of natural resources; and

(b) to make related and other amendments of a minor or technical nature.

### 131 Transitional provisions relating to provisions of principal Act

(1) The amendments made by this Act do not apply to—

(a) a policy statement, plan, change, or variation that, on or before the commencement of this Act, has been publicly notified but has not proceeded to the stage at which no further appeal is possible; or

(b) an application for a resource consent or any other matter in relation to a resource consent that, on or before the commencement of this Act, has been made but has not proceeded to the stage at which no further appeal is possible; or

(c) a requirement for a designation or heritage order for which, at the commencement of this Act, notice has been given under sections 168 or 168A or sections 189 or 189A of the principal Act, as the case may be, but which has not proceeded to the stage where no further appeal is possible.

(2) Subsection (1) applies subject to subsections (3) to (9).

(3) Section 39B(1) to (4) of the principal Act applies to an application made before the commencement of those provisions if, at their respective commencement dates, the hearing has not commenced.

(4) Sections 67(1), (2), (3)(a) and (b), (4), and (6) and 75(1), (2), (3)(a) and (b), (4), and (5) of the principal Act, as substituted by sections 41 and 46, apply to a proposed plan that, at the commencement of this Act, has been notified.

(5) If, at the commencement of this Act, a hearing has not commenced, the following provisions apply to an application for a resource consent made before the commencement of this Act:

(a) section 99 of the principal Act as substituted by this Act; and

(b) section 99A of the principal Act inserted by this Act.

(6) The following provisions of the principal Act apply to the matters described in section 140(c) of the principal Act, whether they arise before or after the commencement of this Act:

(a) the amendment to section 29 made by this Act; and

(b) sections 140 and 141 as substituted by this Act; and

(c) sections 141B and 141C inserted by this Act; and

(d) sections 142 to 149 as substituted by this Act; and

(e) sections 149A and 149B inserted by this Act; and

(f) section 150 as substituted by this Act; and

(g) section 150AA inserted by this Act.

(7) Clause 8AA of Schedule 1 of the principal Act applies to a proposed policy statement or a proposed plan if, at the commencement of this Act, the hearing has not commenced.

(8) The amendments to clause 17 of Schedule 1 of the principal Act made by this Act apply to a policy statement or plan that, at the commencement of this Act, is a proposed policy statement or a proposed plan.

(9) Clause 20A of Schedule 1 of the principal Act applies to a policy statement or plan that, at the commencement of this Act, is operative.

(10) Any material incorporated into a plan by reference before the commencement of this Act is treated as if it had been incorporated under clause 30 of Schedule 1 of the principal Act, and clauses 31 to 35 of Schedule 1 of the principal Act apply accordingly, with any necessary modifications.

### 133 Transitional provision for service of notice

(1) Subsection (2) applies—

(a) to plans or proposed plans existing on 1 August 2003; and

(b) until those plans are reviewed.

(2) Despite section 94(1) of the principal Act, a consent authority is not required to serve notice of an application for a resource consent for a controlled or restricted discretionary activity if a rule in a plan or proposed plan expressly provides—

(a) that such an application does not need to be notified; or

(b) that notice of such an application does not need to be served.

### 134 Transitional provision on allocation plans

The enactment of section 30(1)(fa) and (fb) and (4) of the principal Act by this Act has no effect on any plan made before the day after the date on which this Act receives the Royal assent.

### 135 Transitional provisions relating to regulations made under provisions of principal Act

(1) Sections 43B, 43D, and 43E of the principal Act, as substituted by section 29, do not apply to national environmental standards made before the commencement of this Act.

(2) Regulations made under section 360(1)(hi) of the principal Act may provide how the powers specified in sections 41B and 41C of the principal Act apply to a hearing that has commenced before the regulations come into force.

# Resource Management (Simplifying and Streamlining) Amendment Act 2009

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|---|---|
| Public Act | 2009 No 31 |
| Date of assent | 22 September 2009 |
| Commencement | see section 2 |

### 1 Title

This Act is the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

### 2 Commencement

This Act comes into force on 1 October 2009.

### 3 Principal Act amended

This Act amends the Resource Management Act 1991.

## Part 2
## Transitional provisions and amendments to other enactments

### Subpart 1—Transitional provisions

### 151 Legal effect of rules

(1) This section applies to—

(a) a rule in a proposed plan, if the proposed plan was notified under clause 5 of Schedule 1 of the principal Act before 1 October 2009; and

(b) a rule in a change, if the change was notified under clause 26(b) of Schedule 1 of the principal Act before 1 October 2009.

(2) The legal effect of the rule must be determined as if the amendments made by this Act had not been made.

### 153 National environmental standards

The amendments made by this Act apply to a national environmental standard whether the standard was in force before or after the commencement of this section.

### 154 National policy statements

The amendments made by this Act apply to a national policy statement whether the statement was issued before or after the commencement of this section.

### 155 Proposals of national significance called in

(1) Subsection (2) applies to a resource consent application, notice of requirement, or request for a change to a plan that, immediately before the commencement of this section,—

(a) had been lodged with or initiated by a local authority; and

(b) had been called in by the Minister for the Environment or Minister of Conservation under section 141B of the principal Act; but

(c) had not proceeded to the stage at which no further appeal was possible.

(2) The application, notice of requirement, or request must be determined as if the amendments made by this Act had not been made.

### 156 Restricted coastal activities

(1) Subsection (4) applies to an application for a coastal permit for a restricted coastal activity that, immediately before the commencement of this section,—

(a) had been publicly notified under section 93 of the principal Act; but

(b) had not been decided by the Minister of Conservation.

(2) Subsection (4) also applies to an application to change or cancel a condition of a coastal permit for a restricted coastal activity if, immediately before the commencement of this section,—

(a) the consent authority had decided, under section 127 of the principal Act, whether to notify the application; but

(b) the application had not proceeded to the stage at which no further appeal was possible.

(3) Subsection (4) also applies to a review of the conditions of a coastal permit for a restricted coastal activity if, immediately before the commencement of this section,—

(a) the consent authority had decided, under section 130 of the principal Act, whether to notify the review; but

(b) the review had not proceeded to the stage at which no further appeal was possible.

(4) The application or review must be determined as if the amendments made by this Act had not been made.

### 157 Notices of requirement

(1) Subsection (2) applies to a requirement for a designation or heritage order if, immediately before the commencement of this section,—

(a) 1 or more of the following had occurred:

(i) a notice of the requirement had been given under section 168(1) or (2) or 189(1) of the principal Act:

(ii) the territorial authority had resolved to publicly notify the requirement under section 168A(1) of the principal Act:

(iii) the territorial authority had given notice of the requirement under section 189A(1) of the principal Act:

(iv) a requiring authority had given notice of the requirement, and the requirement was for a modified designation, under clause 4 of Schedule 1 of the principal Act:

(v) the territorial authority had decided to include the requirement in its proposed district plan under clause 4 of Schedule 1 of the principal Act; but

(b) the requirement had not proceeded to the stage at which no further appeal was possible.

(2) The requirement must be determined as if the amendments made by this Act had not been made.

(3) Subsections (1) and (2) also apply as if a requirement to alter a designation or heritage order were a requirement for a designation or heritage order.

### 158 Enforcement proceedings

(1) Subsection (2) applies to an application for an enforcement order or to a charging document that—

(a) relates to acts or omissions before the commencement of this section; and

(b) either—

(i) was lodged or filed before the commencement of this section but, immediately before the commencement of this section, had not proceeded to the stage at which no further appeal was possible; or

(ii) is lodged or filed after the commencement of this section.

(2) The application, or the proceedings relating to the charge, must be determined as if the amendments made by this Act had not been made.

(3) The period for filing a charging document in respect of an offence against section 338(1A) or (1B) of the principal Act is the period specified in section 338(4) of the principal Act, as amended by this Act, only if the offence is committed after the commencement of this section.

Section 158(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(1)(b)(i): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(1)(b)(ii): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### 159 Outstanding applications for resource consent where further information requested

(1) A consent authority must determine that an application for a resource consent has lapsed if—

(a) the application was lodged before the commencement of the Resource Management Amendment Act 2005; and

(b) the consent authority requests, or has requested, further information on the application under section 92(1) of the principal Act; and

(c) the applicant does not comply with the request within 12 months after the later of the following:

(i) the date of commencement of this section:

(ii) the date on which the request was made.

(2) An application that is lodged again with a consent authority after lapsing under subsection (1) must be treated for the purposes of the principal Act as if it were a new application for a resource consent.

### 160 Applications and matters lodged before commencement

(1) Subsection (3) applies to anything specified in subsection (2) that, immediately before the commencement of this section,—

(a) had been lodged with or initiated by a local authority or a Minister; but

(b) had not proceeded to the stage at which no further appeal was possible.

(2) The things referred to in subsection (1) are—

(a) an application for a resource consent (or anything treated by the principal Act as if it were an application for a resource consent):

(b) any other matter in relation to a resource consent (or in relation to anything treated by the principal Act as if it were a resource consent):

(c) an application for a water conservation order under section 201(1) of the principal Act:

(d) an application to revoke or amend a water conservation order under section 216(2) of the principal Act:

(e) an application or a proposal to vary or cancel an instrument creating an esplanade strip under section 234(1) or (3) of the principal Act:

(f) a matter of creating an esplanade strip by agreement under section 235(1) of the principal Act.

(3) The application or matter must be determined as if the amendments made by this Act had not been made.

(4) This section is subject to sections 156 and 159.

### 161 Certain proposed policy statements or plans, changes, and variations publicly notified before commencement

(1) Subsection (2) applies to a proposed policy statement or plan or a change that, immediately before 1 October 2009,—

(a) had been publicly notified under clause 5 or 26(b) of Schedule 1 of the principal Act; but

(b) had not proceeded to the stage at which no further appeal was possible.

(2) The proposed policy statement or plan or change must be determined as if the amendments made by this Act had not been made.

## Notes

### *1 General*

This is a consolidation of the Resource Management Act 1991 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### *2 Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### *3 Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### *4 Amendments incorporated in this consolidation*

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Ngāti Maru (Taranaki) Claims Settlement Act 2022 (2022 No 9): section 42

Ngāti Rangitihi Claims Settlement Act 2022 (2022 No 7): section 40

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59)

Ahuriri Hapū Claims Settlement Act 2021 (2021 No 54): section 45

Moriori Claims Settlement Act 2021 (2021 No 49): section 40

COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42): Schedule 3 Part 3

Water Services Act 2021 (2021 No 36): section 206(1)

Ngāti Hinerangi Claims Settlement Act 2021 (2021 No 11): section 47

Secondary Legislation Act 2021 (2021 No 7): section 3

Infrastructure Funding and Financing Act 2020 (2020 No 47): section 161

Urban Development Act 2020 (2020 No 42): section 300

Public Service Act 2020 (2020 No 40): section 135

Resource Management Amendment Act 2020 (2020 No 30): Part 1

COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13): section 3

Statutes Amendment Act 2019 (2019 No 56): sections 125–131

Contempt of Court Act 2019 (2019 No 44): section 29

Ngāti Rangi Claims Settlement Act 2019 (2019 No 40): section 39

Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55): section 47

Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 (2018 No 28): section 40

Ngāti Tamaoho Claims Settlement Act 2018 (2018 No 19): section 41

Ngāi Tai ki Tāmaki Claims Settlement Act 2018 (2018 No 18): section 86

Heretaunga Tamatea Claims Settlement Act 2018 (2018 No 14): section 34

Ngatikahu ki Whangaroa Claims Settlement Act 2017 (2017 No 41): section 40

Ngāti Pūkenga Claims Settlement Act 2017 (2017 No 39): section 41

Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017 (2017 No 38): section 40

Land Transfer Act 2017 (2017 No 30): section 250

Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197

Resource Legislation Amendment Act 2017 (2017 No 15): Part 1 subpart 1, Part 1 subpart 2, section 188

Rangitāne o Manawatu Claims Settlement Act 2016 (2016 No 100): section 41

Taranaki Iwi Claims Settlement Act 2016 (2016 No 95): section 42

Te Atiawa Claims Settlement Act 2016 (2016 No 94): section 42

Ngāruahine Claims Settlement Act 2016 (2016 No 93): section 42

Civil Defence Emergency Management Amendment Act 2016 (2016 No 88): section 42

Resource Management Amendment Act 2016 (2016 No 68)

Electronic Courts and Tribunals Act 2016 (2016 No 52): section 36

Judicial Review Procedure Act 2016 (2016 No 50): section 24

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b), (c)

Hineuru Claims Settlement Act 2016 (2016 No 33): section 46

Te Ture mō Te Reo Māori 2016/Māori Language Act 2016 (2016 No 17): section 50

Te Rarawa Claims Settlement Act 2015 (2015 No 79): section 135

NgāiTakoto Claims Settlement Act 2015 (2015 No 78): section 119

Te Aupouri Claims Settlement Act 2015 (2015 No 77): section 123

Ngāti Kuri Claims Settlement Act 2015 (2015 No 76): section 121

Te Kawerau ā Maki Claims Settlement Act 2015 (2015 No 75): section 40

Ngāti Hauā Claims Settlement Act 2014 (2014 No 75): section 43

Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74): section 34

Local Government Act 2002 Amendment Act 2014 (2014 No 55): section 78

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014 (2014 No 20): section 55

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014 (2014 No 19): section 52

Ngati Toa Rangatira Claims Settlement Act 2014 (2014 No 17): section 39

Tapuika Claims Settlement Act 2014 (2014 No 15): section 45

Ngāti Rangiwewehi Claims Settlement Act 2014 (2014 No 14): section 46

Ngāti Rangiteaorere Claims Settlement Act 2014 (2014 No 13): section 44

Maungaharuru-Tangitū Hapū Claims Settlement Act 2014 (2014 No 12): section 50

Raukawa Claims Settlement Act 2014 (2014 No 7): section 41

Resource Management Amendment Act 2013 (2013 No 63)

Waitaha Claims Settlement Act 2013 (2013 No 38): section 40

Ngāti Whātua o Kaipara Claims Settlement Act 2013 (2013 No 37): section 71

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Crown Minerals Amendment Act 2013 (2013 No 14): section 65

Legislation Act 2012 (2012 No 119): section 77(3)

Ngāti Whātua Ōrākei Claims Settlement Act 2012 (2012 No 91): section 41

Ngāti Manuhiri Claims Settlement Act 2012 (2012 No 90): section 41

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72): section 176

Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55): section 40

Rongowhakaata Claims Settlement Act 2012 (2012 No 54): section 43

Ngāti Mākino Claims Settlement Act 2012 (2012 No 53): section 36

Maraeroa A and B Blocks Claims Settlement Act 2012 (2012 No 52): section 36

Ngati Porou Claims Settlement Act 2012 (2012 No 31): section 56

Ngāti Pāhauwera Treaty Claims Settlement Act 2012 (2012 No 30): section 79

Ngāti Whare Claims Settlement Act 2012 (2012 No 28): section 62

Ngāti Manawa Claims Settlement Act 2012 (2012 No 27): section 54

Search and Surveillance Act 2012 (2012 No 24): section 300

Criminal Procedure Act 2011 (2011 No 81): section 413

Resource Management Amendment Act (No 2) 2011 (2011 No 70)

Resource Management Amendment Act 2011 (2011 No 19)

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128

Ngāti Apa (North Island) Claims Settlement Act 2010 (2010 No 129): section 41

Private Security Personnel and Private Investigators Act 2010 (2010 No 115): section 121(1)

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)

Unit Titles Act 2010 (2010 No 22): section 233(1)

Corrections (Use of Court Cells) Amendment Act 2009 (2009 No 60): section 5

Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31)

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (2009 No 26): section 36

Te Roroa Claims Settlement Act 2008 (2008 No 100): section 81

Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008 (2008 No 98): section 48

Resource Management Amendment Act 2008 (2008 No 95)

Policing Act 2008 (2008 No 72): sections 116(a)(ii), (iv), 130(1)

Energy (Fuels, Levies, and References) Amendment Act 2008 (2008 No 60): section 17

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Property Law Act 2007 (2007 No 91): section 364(1)

Resource Management Amendment Act 2007 (2007 No 77)

Ngāti Mutunga Claims Settlement Act 2006 (2006 No 61): sections 62, 98

Te Arawa Lakes Settlement Act 2006 (2006 No 43): section 70

Summary Proceedings Amendment Act 2006 (2006 No 13): section 36

Resource Management Amendment Act 2005 (2005 No 87)

Ngaa Rauru Kiitahi Claims Settlement Act 2005 (2005 No 84): sections 57, 112

Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005 (2005 No 72): section 63

Building Amendment Act 2005 (2005 No 31): section 14(2)

Ngāti Awa Claims Settlement Act 2005 (2005 No 28): section 58

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Resource Management Amendment Act (No 2) 2004 (2004 No 103)

Maritime Transport Amendment Act 2004 (2004 No 98): section 11(3)

Resource Management (Foreshore and Seabed) Amendment Act 2004 (2004 No 94)

Building Act 2004 (2004 No 72): section 414

Local Government (Rating) Amendment Act 2004 (2004 No 66): section 13

Resource Management Amendment Act 2004 (2004 No 46)

Resource Management (Aquaculture Moratorium Extension) Amendment Act 2004 (2004 No 5)

Resource Management (Energy and Climate Change) Amendment Act 2004 (2004 No 2)

Ngati Tama Claims Settlement Act 2003 (2003 No 126): section 71

Supreme Court Act 2003 (2003 No 53): section 48(1)

State Sector Amendment Act 2003 (2003 No 41): section 14(1)

Resource Management Amendment Act 2003 (2003 No 23)

Ngati Ruanui Claims Settlement Act 2003 (2003 No 20): section 107

Local Government Act 2002 (2002 No 84): sections 262, 266

Te Uri o Hau Claims Settlement Act 2002 (2002 No 36): section 74

Civil Defence Emergency Management Act 2002 (2002 No 33): section 117

Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 (2002 No 11): section 65(4)

Sentencing Act 2002 (2002 No 9): section 186

Local Government (Rating) Act 2002 (2002 No 6): section 138(1)

Resource Management (Aquaculture Moratorium) Amendment Act 2002 (2002 No 5)

Telecommunications Act 2001 (2001 No 103): section 158, 159(8)

Summit Road (Canterbury) Protection Act 2001 (2001 No 3 (L)): section 36

Pouakani Claims Settlement Act 2000 (2000 No 90): section 51

Personal Property Securities Act 1999 (1999 No 126): section 191(1)

Interpretation Act 1999 (1999 No 85): section 38(1)

Land Transport Act 1998 (1998 No 110): section 215(1)

Ngāi Tahu Claims Settlement Act 1998 (1998 No 97): section 226

District Courts Amendment Act 1998 (1998 No 76): section 7

Rating Valuations Act 1998 (1998 No 69): section 54(1)

Resource Management Amendment Act 1997 (1997 No 104)

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 5(1)(c)

Crown Minerals Amendment Act (No 2) 1997 (1997 No 91): section 4(2)

Resource Management Amendment Act 1996 (1996 No 160)

Fisheries Act 1996 (1996 No 88): section 316(1)

Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74): section 5(4)
Survey Amendment Act 1996 (1996 No 55): section 2(1)
Hazardous Substances and New Organisms Act 1996 (1996 No 30): section 149
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(1)
Foreshore and Seabed Endowment Revesting Amendment Act 1994 (1994 No 113): section 4
Resource Management Amendment Act 1994 (1994 No 105)
Otago Regional Council (Kuriwao Endowment Lands) Act 1994 (1994 No 4 (L)): section 22(1)(c)
Resource Management Amendment Act 1993 (1993 No 65)
Historic Places Act 1993 (1993 No 38): section 118(1), (2)
Te Ture Whenua Maori Act 1993 (1993 No 4): section 362(2)
Building Act 1991 (1991 No 150): section 92(1)
Crown Minerals Amendment Act 1991 (1991 No 102): section 2(2)
Resource Management Act 1991 (1991 No 69): section 392(2)
Public Finance Act 1989 (1989 No 44): section 65R(3)

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