

Hurunui/Kaikōura Earthquakes Emergency Relief Bill

Government Bill

Explanatory note

General policy statement

The Hurunui/Kaikōura earthquake of magnitude 7.8, northeast of Culverden, New Zealand that occurred on 14 November 2016, and its subsequent aftershocks have caused significant damage to land, coastal areas, buildings, and infrastructure.

The earthquakes require a number of legislative measures to facilitate recovery. Amending aspects of the Resource Management Act 1991 (RMA) is one of the measures that will help ease regulatory requirements, while still safeguarding the environment.

Accordingly, this Bill seeks to modify the legislative constraints in the RMA in light of the emergency situation to ensure that efforts can be put into recovery, while providing that the underlying purposes of the RMA are met.

Extending emergency timeframes under RMA

Significant damage to infrastructure requires emergency works to be undertaken by consent authorities, requiring authorities, lifeline utility operators, and others with financial responsibility for the work or persons operating under the state of emergency.

The standard timeframes within the RMA for emergency works will put unreasonable pressure on those undertaking the emergency works to give notice and to apply for resource consents. This process could distract from the recovery effort. The Bill temporarily increases the time-frames to enable the earthquake response to be prioritised. Specifically, the Bill proposes to—

- increase the timeframes for giving notice to a consent authority that works have been undertaken from 7 days to 40 working days:
- increase the time within which any resource consent required must be applied for from 20 working days to 120 working days:

- relax the requirements to inform occupiers of land about entry for emergency work where occupiers are no longer present, and state the manner and form for a notice about that entry and any works:
- include an enabling power for the Minister responsible for the administration of this Act to add, via Order in Council, additional local authorities if necessary or desirable following a significant aftershock of, or other significant event relating to, the Hurunui/Kaikōura earthquakes after the commencement of the legislation:
- enable the temporary powers to be used until 1 April 2018.

Permitted activity status for emergency farming works

As a result of the damage caused by the Hurunui/Kaikōura earthquakes, there has been significant disruption to farming activities. In order to continue basic farming practice (for example, feeding and watering of stock), some farmers have had to replace and/or repair facilities on their land, for example, septic tanks and stockwater supplies. In some cases, they have had to breach the normal regulatory requirements of the district and regional plans to do this.

To enable land owners and occupiers to respond to significant effects from the earthquakes and in order to avoid, remedy, or mitigate the loss of life or injury to humans, loss of life or injury to animals, or serious damage to land or property, the Bill proposes to—

- specify that such emergency farming practices are a permitted activity, provided they are proportionate to the adverse effect being avoided, remedied, or mitigated and will not cause significant adverse effects outside the boundaries of the property; and
- require the owner or occupier to notify the council, within 40 working days, that the activities have been undertaken, but not to require retrospective consents; and
- limit the enforcement of the activities to the relevant local authorities; and
- enable these provisions to be used until 30 March 2017.

Restoration of Kaikōura harbours

The seabed around the North and South Kaikōura harbours has lifted significantly as a result of the earthquakes, meaning that it is no longer safe for ships to use the port. Reliable access to the Kaikōura harbours is necessary to ensure that critical supplies are able to be easily brought to Kaikōura by sea. The closure of the harbours also has significant economic effects for local businesses, including tourism and fisheries. The work required for harbour rehabilitation needs to be enabled without delay.

The restoration of the Kaikōura harbours is likely to commence under the emergency works provisions of the RMA. Under current RMA district and regional planning rules, applying for resource consents to restore the harbours could be difficult, either in advance of the activities or retrospectively if the works are carried out as emer-

agency works. Some activities in some areas of the harbour are classified as non-complying or prohibited.

The Bill proposes to—

- provide a mechanism by which the harbours may be restored to the extent necessary to allow its port facilities to be safely used while having as little impact on the marine environment and its flora and fauna as is reasonably practicable:
- change the status of the activities needed to be undertaken to restore the harbour to “controlled”, unless the activities are already permitted in the relevant plan:
- specify the type of rehabilitation works the legislation applies to:
- require that before the use of emergency powers under the RMA amended by Part 1 of this Bill, consideration must be given to the environmental effects of the proposed works, including how the environmental effects on marine mammals and seabirds must be monitored and avoided, remedied, or mitigated as far as practicable:
- provide for a limited consultation process with specified parties invited to make written comments within a 10-working-day period:
- require the consent authority to prepare and consider a summary of the written comments before making a decision on the resource consent application and to make the summary and the consent authority’s responses to the comments publicly available at the same time as the decision on the consent application:
- remove any opportunity to object to or appeal against these decisions:
- limit enforcement action in relation to the works to the consent authorities concerned and to Ministers of the Crown:
- provide for the provisions to be repealed on 1 April 2018.

Departmental disclosure statement

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=212>.

Regulatory impact statement

The Ministry for the Environment produced a regulatory impact statement on 25 November 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <http://www.mfe.govt.nz/ris/kaikoura-earthquakes-recovery-bill?>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 deems the Bill to have come into force on 14 November 2016 (being the date on which a magnitude 7.8 earthquake occurred in the Hurunui and Kaikōura area).

Part 1

Preliminary provisions

Clause 3 defines terms used in the Bill, including Hurunui/Kaikōura earthquakes, earthquake-affected area, and local authority (for the purposes of *subpart 1 of Part 2* of the Bill). It also provides for the incorporation of definitions from the Resource Management Act 1991 (the **RMA**) into the Bill.

Clause 4 provides that the Bill binds the Crown.

Part 2

Modifications to application of RMA

Subpart 1—Modification of emergency powers

Clause 5 modifies the requirements in section 330A of the Resource Management Act 1991 (**RMA**) in respect of actions taken under section 330 of that Act (which allow certain persons to undertake emergency works without fulfilling all the requirements of the Act, such as obtaining a resource consent for the works if a consent is usually required). The clause extends the time by which a person must notify the relevant consent authority that the person is carrying out the works from 7 days to 40 working days. The clause also extends the period by which a person must apply for any necessary resource consents from 20 to 120 working days.

Clause 6 modifies the notification requirements of section 330(2) of the RMA, which authorises consent authorities to enter certain places in an emergency provided certain preconditions are met. The modification applies if the occupier is not present at the time of entry, and treats the authority as having complied with section 330 provided that a notice giving certain information is displayed on the land where the place is.

Clause 7 modifies the requirements of section 330B of the RMA, which relates to activities carried out under a state of emergency or transition period under the Civil Defence Emergency Management Act 2002, in the same manner as the modifications made by *clause 5*. The time within which notification of the activity must be given and an application for a resource consent must be made is extended from 7 to 40 working days and 20 to 120 working days respectively.

Clause 8 provides that this subpart applies subject to the limitation in *clause 18*, which relates to the use of emergency powers for certain activities in respect of the rehabilitation of Kaikōura Harbour.

Subpart 2—Emergency activities undertaken by certain rural landowners and occupiers

Clause 9 states that the subpart applies to activities that are undertaken on rural land and to which 1 or more of the regional or district plans of the Hurunui, Kaikōura, and Marlborough District Councils, and the Canterbury Regional Council apply. Rural land is defined in the clause as land that has rural zoning status in the relevant district plan or is used for the primary purpose of livestock or horticultural farming.

Clause 10 states that owners and occupiers of rural land can undertake certain emergency preventive or remedial measures on their land if there is, or is likely to be, loss of life or injury to humans, loss of life or serious detriment to the health or well-being of animals, or serious damage to land or property. The measures taken must be proportionate to the loss, injury, serious detriment, or serious damage (or the risk of any of those) and must not have significant adverse effects on land or property beyond the rural land's border. If the measures taken meet these requirements, they are treated as permitted activities for the purposes of the relevant district or regional plan or plans.

Clause 11 requires owners and occupiers of rural land who carry out the measures referred to in *clause 10* to give notice within 40 working days of doing so to the relevant local authority. If notice is not given, the permitted activity status of the activity is revoked as from the date on which the 40-working-day notice period ends.

Clause 12 notes that the duty on a local authority to gather information, monitor, and keep records under section 35 of the RMA continues to apply.

Clause 13 provides that only a local authority can take enforcement proceedings (including declaratory proceedings) under Part 12 of the RMA in relation to activities undertaken under this subpart.

Clause 14(1) provides that the subpart is repealed on 30 March 2017. Under *subclause (2)*, the repeal does not automatically affect the permitted activity status conferred on an activity. However, its status may be changed under the normal processes in the RMA as provided for in *subclause (3)*. *Subclause (3)* also provides that, despite the repeal of the subpart, *clause 13* continues to apply for the purposes of taking any enforcement proceedings in relation to a permitted activity with continuing status as such.

Subpart 3—Rehabilitation of Kaikōura Harbour

Clause 15 defines terms used in the subpart, including Kaikōura Harbour.

Clause 16 defines rehabilitation work, and includes a list of activities that may be undertaken in circumstances specified in the rest of the subpart (provided they are necessary or desirable so that the harbour and its facilities are able to be used fully, effectively, and safely).

Clause 17 provides that rehabilitation work that has any status other than that of a permitted activity in the Kaikoura District Council plan or a Canterbury Regional Council regional plan is deemed to be a controlled activity and the consent authority concerned may impose any conditions under section 108 of the RMA that it considers appropriate on a resource consent granted for the activity for the purposes of managing or monitoring the environmental effects of the activity.

Clause 18 provides that the modifications to the RMA set out in *subpart 1* of the Bill do not apply to a deemed controlled activity undertaken by a consent authority unless the authority,—

- before undertaking the activity, considers certain matters (including the environmental effects of the activity); and
- while undertaking the activity, monitors the environmental effects of the activity and avoids, remedies, or mitigates those effects as far as is practicable.

Clause 19 requires a consent authority to advise certain persons that an application for a deemed controlled activity has been lodged and to invite written comments from those persons.

Clause 20 provides that—

- an application for a deemed controlled activity must not be publicly notified or given limited notification; and
- *clause 19* applies instead of sections 95 to 99A of the RMA; but
- otherwise the application must be determined in accordance with Part 6 of the RMA.

Clause 21 requires a consent authority making a decision on an application for a deemed controlled activity to prepare and consider a summary of the written comments made by persons under the process in *clause 19* and to make this summary, together with its response to the issues raised, publicly available on an Internet site before or when the decision on the application is notified.

Clause 22 limits the ability to take enforcement proceedings in relation to the activities undertaken in reliance on this subpart to a consent authority or a Minister.

Part 3

Miscellaneous provisions

Clause 23 provides for additional local authorities to be added to the application of the Bill in certain limited circumstances.

Clause 24 confirms that Orders in Council made under *clause 23* are disallowable instruments and legislative instruments under the Legislation Act 2012.

Clause 25 provides for the repeal of the Bill on 1 April 2018, with the exception of *subpart 2 of Part 2* of the Bill (which is repealed on 30 March 2017).

Hon Gerry Brownlee

Hurunui/Kaikōura Earthquakes Emergency Relief Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Hurunui/Kaikōura Earthquakes Emergency Relief Act **2016**.

2 Commencement

This Act is deemed to have come into force on 14 November 2016. 5

Part 1
Preliminary provisions

3 Interpretation

- (1) In this Act, unless the context otherwise requires,—
- earthquake-affected area** means, to the extent that they are affected (whether directly or indirectly) by the Hurunui/Kaikōura earthquakes,— 10
- (a) the districts and regions of the local authorities; and
 - (b) the parts of the coastal marine area that are part of, or adjacent to, the districts and regions of the local authorities
- Hurunui/Kaikōura earthquakes** or **earthquakes**— 15
- (a) means the earthquakes that occurred on 14 November 2016 in Hurunui and Kaikōura; and
 - (b) includes any earthquake that occurs in, or significantly affects, the earthquake-affected area on or after 14 November 2016

local authority, for the purposes of **subpart 1 of Part 2**, means—

- (a) the Hurunui District Council, the Kaikoura District Council, the Marlborough District Council, the Wellington City Council, the Hutt City Council, the Canterbury Regional Council, and the Wellington Regional Council; and
- (b) a local authority specified for the purposes of this definition in an Order in Council made under **section 23**

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is responsible for the administration of this Act

plan—

- (a) has the meaning given in section 2 of the RMA; and
- (b) includes a proposed plan

RMA means the Resource Management Act 1991.

- (2) A term defined in the RMA that is used, but not defined, in this Act has the same meaning as in the RMA.
- (3) An example used in this Act is only illustrative of the provision to which it relates. It does not limit the provision.
- (4) If an example and a provision to which it relates are inconsistent, the provision prevails.

4 Act binds the Crown

This Act binds the Crown.

Part 2

Modifications to application of RMA

Subpart 1—Modification of emergency powers

- 5 Modified requirements for exercise of emergency powers under section 330 of RMA**
- (1) This section applies if, because of or in connection with the Hurunui/Kaikōura earthquakes, a person, local authority, consent authority, network utility operator, or lifeline utility (or a person acting on their behalf) undertakes an activity in the earthquake-affected area under section 330 of the RMA.
- (2) The time within which advice of the activity must be given under section 330A(1) is extended to 40 working days.
- (3) The time within which any application for a resource consent must be lodged under section 330A(2) is extended to 120 working days.
- (4) Section 330A(3) applies subject to the time periods modified by **subsections (2) and (3)**.

- 6 Modified application of section 330(2) of RMA to local authority**
- (1) This section applies if, because of or in connection with the Hurunui/Kaikōura earthquakes, a local authority or consent authority acting under section 330(2) of the RMA enters a place on land within the earthquake-affected area when the occupier is not there. 5
- (2) Section 330(3) is satisfied, and the local authority is not required to take further action to contact the occupier, if a notice is displayed in a prominent place on the land that gives the date and purpose of entry and the contact details of a person who can provide further information.
- 7 Modified requirements for exercise of emergency powers to which section 330B of RMA applies** 10
- (1) This section applies if, because of or in connection with the Hurunui/Kaikōura earthquakes, a person (or a person acting on their behalf) undertakes an activity to which section 330B of the RMA applies in that part of the earthquake-affected area to which a state of emergency or transition period under the Civil Defence Emergency Management Act 2002 applies. 15
- (2) The time within which advice of the activity must be given under section 330B(2) is extended to 40 working days.
- (3) The time within which any application for a resource consent must be lodged under section 330B(3) is extended to 120 working days. 20
- (4) Section 330B(4) and (5) applies subject to the time periods modified by **subsections (2) and (3)**.
- 8 Limitation on application of subpart**
- This subpart applies subject to the limitation set out in **section 18** (which relates to the use of emergency powers for certain activities in respect of the rehabilitation of Kaikōura Harbour). 25
- Subpart 2—Emergency activities undertaken by certain rural landowners and occupiers
- 9 Application of this subpart**
- (1) This subpart applies to activities undertaken on rural land to which 1 or more of the district or regional plans of any of the following local authorities apply: 30
- (a) the Hurunui District Council, the Kaikoura District Council, the Marlborough District Council, and the Canterbury Regional Council; or
- (b) a local authority specified for the purposes of this section in an Order in Council made under **section 23**; and 35
- (2) In this subpart, **rural land** means land that—
- (a) is within the district of—

-
- (i) the Hurunui District Council, the Kaikoura District Council, or the Marlborough District Council; or
 - (ii) a local authority referred to in **subsection (1)(b)**; and
 - (b) either—
 - (i) has rural zoning status (however described) in the relevant district plan; or
 - (ii) is used for the primary purpose of livestock or horticultural farming.
- 10 Owner or occupier of rural land may take emergency preventive or remedial actions** 10
- (1) **Subsection (2)** applies if,—
 - (a) because of or in connection with the Hurunui/Kaikōura earthquakes, a sudden event or an adverse effect on the environment has caused, is causing, or is likely to cause loss of life or injury to humans, loss of life or serious detriment to the health or well-being of animals, or serious damage to land or property; and 15
 - (b) the owner or occupier of rural land—
 - (i) considers, on reasonable grounds, that immediate preventive or remedial measures are required on the owner’s or occupier’s rural land to avoid, remedy, or mitigate the loss, injury, detriment, or damage; and 20
 - (ii) undertakes an activity to give effect to the measures; and
 - (c) in the circumstances, the activity is proportionate to the loss, injury, detriment, or damage or the risk of any of those; and
 - (d) the activity will not cause significant adverse effects beyond the boundaries of the owner’s or occupier’s rural land. 25
 - (2) The activity is deemed to be a permitted activity for the purposes of the relevant district or regional plan (or both).
 - (3) **Subsection (2)** applies whether or not the sudden event or adverse effect was foreseeable. 30
- 11 Requirement for owner or occupier to give notice**
- (1) An owner or occupier of rural land who has acted under **section 10** must give written notice to the relevant consent authority that the activity has been undertaken.
 - (2) Notice must be given within 40 working days from the start of the undertaking of the activity. 35

- (3) If the owner or occupier fails to comply with **subsection (2)**, the permitted activity status of the activity is revoked as from the date on which the notice period ends.
- 12 Duty to gather information, monitor, and keep records**
Nothing in this subpart limits or affects a local authority's duties under section 35 of the RMA. 5
- 13 Enforcement proceedings**
For the purposes of activities undertaken under this subpart, only the relevant local authority may take enforcement proceedings (including declaratory proceedings) under Part 12 of the RMA, including in any case where it is alleged that the rural land owner or occupier has breached section 16 or 17 of the RMA. 10
- 14 Repeal of subpart and its effect**
- (1) This subpart is repealed on 30 March 2017.
- (2) The repeal does not affect the permitted activity status conferred on an activity under **section 10(2)**. 15
- (3) However,—
- (a) **subsection (2)** does not limit or affect the operation of the RMA (including the ability to change the status of the permitted activity in a district or regional plan) after the repeal of this subpart; and 20
- (b) **section 13** continues to apply despite its repeal for the purposes of taking any enforcement proceedings in relation to the permitted activity.
- Subpart 3—Rehabilitation of Kaikōura Harbour
- 15 Interpretation**
In this subpart, unless the context otherwise requires,— 25
- consent authority** means the Kaikoura District Council or the Canterbury Regional Council (or both)
- deemed controlled activity** means an activity to which **section 17** applies
- Kaikōura harbour** or **harbour** means—
- (a) the area of the sea (and adjacent foreshore) on the northern side of the Kaikōura peninsula that falls more or less within the arc of a circle that has a radius of 0.6 nautical miles centred on the Ingles Bay wharf front lead light; and 30
- (b) the area of the sea (and adjacent foreshore) on the southern side of the Kaikōura peninsula that falls more or less within the arc of a circle that has a radius of 0.6 nautical miles centred on the South Bay Boat Harbour green flashing aid to navigation 35

rehabilitation work has the meaning in **section 16**.

16 Meaning of rehabilitation work

- (1) In this subpart, **rehabilitation work** means an activity described in **subsection (2)** if, because of or in connection with the Hurunui/Kaikōura earthquakes, it is necessary or desirable to undertake the activity so that the Kaikōura harbour and its facilities are able to be used fully, effectively, and safely. 5
- (2) The activities are—
- (a) disturbing the foreshore or seabed within the harbour, including by dredging, excavating, drilling, tunnelling, or blasting: 10
 - (b) removing foreshore or seabed material from the harbour and depositing or dumping it in, on, or under other areas of—
 - (i) foreshore within the Kaikōura district:
 - (ii) land within the Kaikōura district:
 - (c) removing foreshore or seabed material from the harbour and depositing (but not dumping) it in, on, or under the seabed within the harbour: 15
 - (d) erecting, reconstructing, repairing, altering, extending, removing, or demolishing a structure within the harbour:
 - (e) using or storing machinery or hazardous material within the harbour or in, on, or under other areas of— 20
 - (i) foreshore within the Kaikōura district:
 - (ii) seabed within the Kaikōura district:
 - (iii) land within the Kaikōura district:
 - (f) an activity associated with an activity described in any of **paragraphs (a) to (e)**, including— 25
 - (i) the discharge of any thing associated with disturbing the foreshore or seabed; and
 - (ii) the discharge of any thing associated with moving foreshore or seabed material and depositing it elsewhere.
- (3) In this section, **Kaikōura district** means the district of the Kaikōura District Council and the coastal marine area adjacent to that area. 30

17 Deeming of certain rehabilitation work to be controlled activity

- (1) This section applies to rehabilitation work that has any status other than that of a permitted activity under any of the following: 35
- (a) the district plan of the Kaikōura District Council:
 - (b) a regional plan of the Canterbury Regional Council.

- (2) If the work is undertaken by or on behalf of an authorised person, the work is deemed—
- (a) to be a controlled activity; and
 - (b) to satisfy the requirements of section 107(2)(a) to (c) of the RMA.
- (3) Despite sections 87A(2)(b) and 104A(b) of the RMA, a consent authority may impose any conditions under section 108 of the RMA that it considers appropriate on a resource consent granted for an activity to which **subsection (2)** applies for the purposes of managing or monitoring the environmental effects of the activity. 5
- (4) In this section, **authorised person** means any of the following: 10
- (a) the Kaikoura District Council;
 - (b) the Canterbury Regional Council;
 - (c) a person authorised by the Kaikoura District Council or the Canterbury Regional Council (or both).

18 Application of emergency powers to deemed controlled activity 15

The modifications to the RMA set out in **subpart 1** do not apply in respect of a deemed controlled activity undertaken by or on behalf of the Kaikoura District Council or the Canterbury Regional Council unless the council concerned,—

- (a) before the activity is undertaken,— 20
 - (i) considers the environmental effects of the activity and how they may be avoided, remedied, or mitigated; and
 - (ii) considers any effects of the activity on marine mammals and seabirds and how the effects may be avoided, remedied, or mitigated; and 25
- (b) while the activity is being undertaken,—
 - (i) monitors its environmental effects and the effects on marine mammals and seabirds (whether itself or by a person on its behalf); and
 - (ii) avoids, remedies, or mitigates those effects as far as is practicable. 30

Example 30

A person authorised by the Canterbury Regional Council (**A**) needs to dump seabed material that has been dredged from the Kaikōura harbour.

When choosing the area of foreshore or land to dump the material, the Council must consider various things, including the sensitivity of the site (for example, whether it is a culturally significant site), the mechanics of dumping at that site (for example, whether it would be a site where the spoil could be unstable or enter any waterway or waterbody) and whether the material is being dumped in the location on a temporary or permanent basis. 35

While A is dumping the spoil, the Council must monitor, amongst other things, how it is affecting the site (for example, how much fine material is moving into the surrounding area) and take steps to minimise that effect.

- 19 Process for consent authority considering resource consent application for deemed controlled activity** 5
- (1) As soon as practicable after an application for a deemed controlled activity is lodged with a consent authority, it must—
- (a) advise the persons specified in **subsection (2)** that an application has been lodged; and
- (b) invite written comments from those persons. 10
- (2) The persons are—
- (a) Te Rūnanga o Ngāi Tahu and any relevant Papatipu Rūnanga identified by Te Rūnanga o Ngāi Tahu; and
- (b) the Kaikoura District Council; and
- (c) Kaikoura Coastal Marine Guardians; and 15
- (d) Maritime New Zealand; and
- (e) the Minister of Conservation; and
- (f) the Minister for the Environment; and
- (g) the Minister of Defence; and
- (h) the Minister for Primary Industries; and 20
- (i) the Canterbury Regional Harbourmaster; and
- (j) the Canterbury Regional Council; and
- (k) the owners and occupiers of land directly adjacent to where the activity is being undertaken; and
- (l) any other person as the consent authority considers appropriate, including the public generally. 25
- (3) For the purposes of **subsection (1)(b)**, the consent authority must—
- (a) invite each person referred to in **subsection (2)** to make written comments on the application; and
- (b) give those persons 10 working days from the making of an invitation within which to make their comments to the consent authority; and 30
- (c) specify in the invitation the date by which written comments are to be received by the consent authority.
- (4) An invitation under this section is to be treated as a document to be served for the purposes of the RMA, and section 352 of that Act applies accordingly. 35
- (5) A person invited to make written comments under this section on an application—

- (a) may not appeal under the RMA against the consent authority’s decision on the application; and
- (b) may not object under Part 14 of the RMA against the consent authority’s decision on the application.
- (6) To avoid doubt, a person who makes written comments to a consent authority under this section is not to be treated under the RMA as a person making a submission on the application. 5
- 20 Application of RMA to resource consent application for deemed controlled activity**
- For the purposes of this subpart,— 10
- (a) an application for a deemed controlled activity must not be publicly notified or given limited notification; and
- (b) **section 19** applies to the application instead of sections 95 to 99A of the RMA; but
- (c) otherwise the application must be determined in accordance with Part 6 of the RMA (applied with all necessary modifications) except that— 15
- (i) the consent authority need not have regard to the matters in section 104(1)(b) when considering the application; and
- (ii) for the purposes of section 115, the period during which comments are sought under **section 19** of this Act is excluded from the time limits in section 115. 20
- 21 Summary of responses**
- (1) Before a consent authority makes a decision on an application for a deemed controlled activity, a summary of the written comments made on the application under **section 19** must be prepared and considered by the consent authority. 25
- (2) The summary, together with the consent authority’s response to the issues raised in the written comments, must be made publicly available on an Internet site at the same time as, or before, the decision on the application is notified under the RMA. 30
- 22 Enforcement proceedings**
- For the purposes of activities undertaken in reliance on this subpart, only a consent authority or a Minister of the Crown may take enforcement proceedings (including declaratory proceedings) under Part 12 of the RMA, including in any case where it is alleged that a consent holder has breached section 16 or 17 of the RMA. 35

Part 3

Miscellaneous provisions

- 23 Order in Council may specify additional local authorities** 5
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify 1 or more additional local authorities for the purposes of the definition of local authority in **section 3(1)** or the application provision in **section 9(1)** (or both).
- (2) The Minister may make a recommendation only if he or she is satisfied that—
- (a) an earthquake has occurred in, or significantly affected, the earthquake-affected area after this Act is enacted; and 10
- (b) the district or region, or any part of the district or region, of the local authority is affected by the earthquake to the extent that it is necessary or desirable to apply the measures available under this Act to that area.
- 24 Application of Legislation Act 2012**
- (1) An Order in Council made under **section 23** is a disallowable instrument for the purposes of the Legislation Act 2012. 15
- (2) An Order in Council made under **section 23** is also a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- 25 Repeal of this Act** 20
- This Act is repealed on 1 April 2018, with the exception set out in **section 14(1)**.