

# **Resource Management (Simplifying and Streamlining) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to simplify and streamline the Resource Management Act 1991 (the **RMA**).

The changes focus on improving the quality and certainty of decisions, and reducing delays and costs by simplifying procedures and rationalising appeal processes, while ensuring penalties are sufficient to discourage inappropriate practices.

The Bill has 9 objectives—

- to reduce costs and delays arising from submissions and appeals that are frivolous or vexatious or motivated by anti-competitive behaviour:
- to reduce the time it takes to reach decisions on proposals of national significance while still maintaining effective public participation and promoting the sustainable management of natural and physical resources:
- to establish an Environmental Protection Authority to provide efficient and timely administration of proposals of national significance:

- to facilitate timely and cost effective development and updating of planning documents that enables rapid responses to changing conditions or emerging environmental issues while retaining an appropriate degree of public participation:
- to reduce the time and costs associated with resource consent processes while maintaining an appropriate degree of public participation:
- to increase the efficiency and effectiveness of the development of national RMA instruments and their implementation:
- to ensure that the RMA enforcement regime acts as an effective deterrent to non-compliance:
- to increase the efficiency and workability of decision-making processes under the RMA:
- to remove and replace redundant technical provisions with enforceable ones, and to make minor procedural changes to avoid unnecessary delays and improve processes.

### **Summary of main measures**

The main measures—

- introduce new mechanisms aimed at reducing the incidence of vexatious and frivolous appeals, and appeals motivated or backed by trade competition. These mechanisms include enabling the courts to seek security for costs, introducing indemnity costs and a punitive regime, and allowing for sanctions against third parties who act on behalf of trade competitors without disclosing this information:
- amend and add to the current powers of the Minister for the Environment in relation to proposals of national significance. This will enable applications and requests for plan changes to be processed by a new Environmental Protection Authority with hearings before a board of inquiry. Decisions of the board of inquiry must be made within 9 months of the consent being notified and appeal rights on decisions will only be appealable on questions of law. Appeals beyond the High Court will be restricted to exceptional circumstances:
- introduce mechanisms to speed up and reduce costs in the plan preparation and change processes. These mechanisms include the modification of the further submission process to enable

local authorities to consult with those who may be affected by matters in submissions as an alternative process, streamlining decision reporting, and removing the ability for appeals to be lodged that challenge entire plans:

- reduce costs in the resource consent process by further reducing the need for consents to be notified when effects are minor, reducing the delays due to serial or iterative council requests for further information, and reducing the reporting workload for consent processing staff:
- amend and clarify existing provisions related to national policy statements (NPS) and national environmental standards (NES) to remove problems that have been encountered in their development and ensuring that they can be more efficiently and effectively integrated into plans and implemented:
- improve the effectiveness of enforcement mechanisms by creating stronger incentives to comply, including increasing maximum penalties, introducing a new level of fines for corporate offenders, and removing Crown immunity from enforcement action:
- introduce a range of technical and minor amendments to improve workability, provide more flexibility in decision-making arrangements, and clarify appeal rights and processes.

## Clause by clause analysis

### Part 1

#### Amendments to principal Act

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. Different sections come into force at different times. *Clause 147*, which removes the non-complying activity category from the principal Act, comes into force 3 years and 1 day after the date on which the Act receives the Royal assent. *Clause 151(1) and (2)*, containing transitional provisions relating to existing district rules that protect trees, come into force 2 years and 1 day after the date on which the Act receives the Royal assent. The rest of the Act comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Bill amends the Resource Management Act 1991.

*Clause 4* amends section 2(1). Redundant definitions are repealed, ie, amendment, board of inquiry, and declaration.

Definitions are amended consequentially on other changes in the Bill, ie, applicant, submission, and survey plan.

Definitions are amended by the addition of a reference to national environmental standards, ie, land and use.

The definition of consent authority is amended to provide that the regional council is the consent authority in relation to a restricted coastal activity, and to remove reference to the Minister of Conservation.

The definition of public notice is amended to note that a notice may be published on the internet, provided it is also published in a newspaper.

The definition of restricted coastal activity is amended to remove reference to the consent authority.

The definitions that relate principally to Part 5 have been moved to the beginning of that Part and a signpost definition substituted in this section.

*Clause 5* amends section 4 so that an abatement notice, excessive noise direction, or enforcement order may be issued or made against the Crown. Only a local authority may apply for the enforcement order. The amendment also provides that a Crown organisation may be served with an infringement notice or may be proceeded against under the Crown Organisations (Criminal Liability) Act 2002. Only a local authority or an enforcement officer may commence the proceedings.

*Clause 6* replaces section 9. The section has been rewritten in a way that streamlines and simplifies it. The only substantive change is the addition of a reference to national environmental standards.

*Clauses 7 and 8* remove material from sections 10 and 10B to assist in the streamlining and simplifying of the Act. The material removed is almost incomprehensible. It has been comprehensively overhauled and moved to the new definitions of land and use.

*Clause 9* replaces section 11(1)(a). The paragraph is rewritten in a way that streamlines and simplifies it. The only substantive changes are the addition of a reference to national environmental standards

and the removal of references to a District Land Registrar and the Registrar of Deeds.

*Clause 10* amends section 12 to include references to national environmental standards.

*Clause 11* amends section 13(1) and (2). The subsections are rewritten in a way that streamlines and simplifies them. The only substantive change is the addition of a reference to national environmental standards.

*Clauses 12 to 15* amend sections 14 to 17 to include references to national environmental standards.

*Clause 16* repeals sections 19 and 20 and the heading above section 19. These provisions, in amended form, have been moved to Part 5 of the Act (see *clause 59*).

*Clause 17* inserts a heading before section 20A.

*Clause 18* substitutes a *new section 22*. The new section allows an enforcement officer to require a natural person breaching the Act to give the officer the person's date of birth.

*Clause 19* inserts a *new section 25B*. The new section authorises the Minister to direct a regional council to commence a review of the whole or any part of its regional plan and a territorial authority to commence a review of the whole or any part of its district plan. The new section also authorises the Minister of Conservation to direct a regional council to commence a review of the whole or any part of its regional coastal plan.

*Clause 20* amends section 28 to remove the Minister of Conservation's functions relating to restricted coastal activities.

*Clause 21(1)* rewrites section 29(1)(a) to (h) to streamline and simplify the paragraphs by putting them in a sensible order. The only substantive change is that paragraphs are added to ensure that the Minister cannot delegate to the chief executive of the Ministry for the Environment the Minister's powers to recommend the making of delegated legislation.

*Clause 21(2)* authorises the Minister to delegate to the Environmental Protection Authority (established under *new Part 4A*) his or her functions, powers, and duties under sections 144, 145, and 147 (which relate to decisions on proposals of national significance).

*Clause 22* amends section 34A. The first amendment clarifies that a local authority may not delegate the power to approve a proposed

policy statement or plan under clause 17 of Schedule 1. The second amendment is consequential on the amendments to sections 171 to 176A that provide for the local authority to decide on a requirement for a designation (instead of making a recommendation to the requiring authority).

*Clause 23* amends section 35 to include references to national environmental standards.

*Clause 24* amends section 36 to allow a local authority to fix charges in relation to the costs of deciding an application for a resource consent. The charges are payable by persons who request that the local authority delegates its powers to hear and decide the application in accordance with *new section 100A*. Section 36 is also amended consequentially on *new sections 87C to 87G*.

*Clause 25* inserts a *new section 36AA*. The new section requires a local authority to adopt a policy in respect of discounting administrative charges imposed under section 36 in the circumstances where a resource consent is not processed within the time frames set out in the Act, and the responsibility for the failure rests with the local authority.

*Clause 26* amends section 37B to clarify when the Minister has the powers of a consent authority for the purposes of sections 37 and 37A and to include the Environmental Protection Authority as a consent authority for the purposes of those sections.

*Clause 27* amends section 38 so that the Minister of Conservation's power to appoint enforcement officers reflects changes made to the Minister's functions.

*Clause 28* amends the heading to section 41 to make it more informative. It also repeals section 41(4) and moves the material to a more logical place in *new section 41D*.

*Clause 29* adds a consequential cross reference to *new section 41D*.

*Clause 30* inserts *new sections 41BA and 41BB* giving a local authority power to require an expert report before or during a hearing. The authority must send the report to interested parties at least 15 working days before the hearing, if briefs of evidence are being circulated, or at least 5 working days before the hearing, if they are not.

*Clause 31* amends section 41C. The amendments remove material from section 41C(4) as the material is now more logically placed in *new section 41BB*; ensure that everyone involved in a hearing re-

ceives the same information; and allow the consent authority to strike out a submission by a trade competitor that does not comply with the new rules on the content of submissions by trade competitors.

*Clause 32* inserts a *new section 41D*, based on current section 41(4).

*Clause 33* amends the definition of local authority in section 42(6).

*Clause 34* repeals section 42A. The substance of the section is moved to a more logical place as *new section 92AB*.

*Clause 35* inserts *new Part 4A* in the Act. The new Part establishes the Environmental Protection Authority and sets out its functions.

*Clause 36* provides for the Secretary for the Environment to exercise the powers, functions, and duties of the Environmental Protection Authority until the provision is repealed.

*Clause 37* inserts *new sections 43AA to 43AC*. *New section 43AA* collects together, from section 2(1), the definitions of terms used in this Part, and adds a definition for proposed policy statement. *New section 43AAB* sets out the definitions of district rule and regional rule and *new section 43AAC* sets out the definition of proposed plan

*Clause 38* makes the heading of section 43A more accurate.

*Clause 39* amends section 43B to explain more clearly how national environmental standards, rules, and consents fit together.

*Clause 40* replaces section 44 with a provision that enables minor and technical amendments to be made to national environmental standards more easily. It also inserts a *new section 44A* that sets out local authorities' duties in relation to national environmental standards.

*Clause 41* amends section 46A to add national environmental standards to the matters the Minister must consider when choosing a process for making a national policy statement. Section 46A is also amended so that the alternative process (under section 46A(1)(b)) can be used to prepare the proposed national policy statement even if the statement specifically directs that amendments be made to a document.

*Clause 42* amends section 47 to restrict the liability of a member of a board of inquiry.

*Clause 43* inserts a *new section 47A*. The new section gives the Minister the power to direct a board of inquiry to suspend its inquiry and the power to provide the board with additional material to consider. The powers may only be exercised before the board reports to the Minister.

*Clause 44* amends section 50 to update a cross reference and to provide that the Minister has the right to be heard at a hearing into a proposed national policy statement. Submitters already have the right to be heard.

*Clause 45* amends section 51 to require a board of inquiry to also consider any additional material provided by the Minister under *new section 47A*.

*Clause 46* inserts *new section 51A*. The new section lets the Minister withdraw all or part of a proposed national policy statement before it is approved.

*Clause 47* amends section 52 to provide that the Minister may withdraw all or part of a proposed national policy statement after considering the report and recommendations made by a board of inquiry.

*Clause 48* amends section 55. That section concerns a local authority's duty to amend a document if the document is affected by a national policy statement. The amendment to section 55 more clearly distinguishes between the specific duty to amend a document in a manner directed by the statement, and the overlapping general duty to amend a document to give effect to the statement. The first type of amendment (under the specific duty) must be made without further formality, but the amendment must be publicly notified. The second type of amendment (under only the general duty) must be made using the process set out in Schedule 1.

*Clauses 49 to 51* amend sections 61, 66, and 74 to ensure that the effects of trade competition are treated in the same way as trade competition itself.

*Clause 52* amends section 76 by inserting *new subsection (4A)*. The new subsection prohibits a rule in a district plan from providing for the protection of any tree, or group of trees, in an urban environment unless the tree or group of trees is specifically identified in a schedule to the district plan, or located within a reserve or an area subject to a conservation management plan or conservation management strategy.

*Clause 53* repeals and substitutes sections 77A and 77B to clarify how a local authority may categorise activities, make rules for activities, and specify conditions in a plan or proposed plan.

*Clause 54* repeals sections 77C and 77D consequentially to the amendments made in *clause 53*.



*Clause 55* repeals section 78A as a consequence of the inserting of *new section 80* (see *clause 57*).

*Clause 56* changes the requirement in section 79(2) for a territorial authority to review its district plan at no more than 10 year intervals, to a requirement to review its plan if the plan no longer assists the authority to carry out its functions in order to achieve the purpose of the Act.

*Clause 57* repeals and substitutes section 80. *New section 80* sets out when combined regional and district documents may be prepared, implemented and administered.

*Clause 58* amends section 82. The amendment clarifies that the process set out in Schedule 1 must be used to change a policy statement or plan to remove an inconsistency. The amendment also provides that the relevant process under section 55 must be used to amend a policy statement or plan to give effect to another policy statement.

*Clause 59* inserts a new heading and *new sections 86A to 86C*. These sections set out the legal effect of rules and when certain rules are to be treated as operative.

*Clause 60* inserts *new sections 87A to 87G*. *New section 87A* sets out the consequences of describing an activity as being permitted, controlled, restricted discretionary, discretionary, non-complying, or prohibited. *New section 87B* sets out when certain activities must be treated as discretionary activities or prohibited activities. *New sections 87C to 87G* provide for an application for a resource consent to go directly to the Environment Court for a decision, by-passing the local authority process.

*Clause 61* makes amendments to section 88A that are consequential on *new sections 87A to 87G*.

*Clauses 62 and 63* amend sections 88B and 88C to clarify the time periods in sections 91, 101(2), and 115(a).

*Clause 64* replaces section 92. The *new section 92* no longer deals with the provision of reports to consent authorities because that is done by *new section 41AB*, if there is a hearing, and by *new section 92AB*, if there is no hearing.

*Clause 65* clarifies that a consent authority must consider an application under section 104 even if the applicant does not meet certain

obligations in relation to the consent authority requesting further information.

*Clause 66* inserts *new section 92AB*. The new section deals with reports requested by a consent authority when it has decided not to hold a hearing.

*Clause 67* consequentially amends a cross reference in section 92B and clarifies that a consent authority must consider an application under section 104 even if the applicant does not meet certain obligations in relation to the consent authority requesting the applicant's agreement to the commissioning of a report.

*Clause 68* repeals sections 93 and 94 and substitutes *new sections 93 to 94AAE*. The sections set out how a consent authority determines whether or not to notify an application for a resource consent and the manner in which it may do so.

*Clause 69* amends section 94A to ensure that the effects of trade competition are treated in the same way as trade competition itself. It also updates a cross-reference consequential on the amendments made by *clause 68*.

*Clause 70* repeals sections 94B, 94C, and 94D. The matters in these provisions are now covered by *new sections 93 to 94AAE*.

*Clause 71* amends section 95 by setting a 10 day time restriction for a consent authority to decide whether or not to notify an application for a resource consent.

*Clause 72* replaces section 96 to limit the rights of trade competitors to make submissions on applications.

*Clause 73* inserts *new section 100A*. The new section applies to certain applications for resource consents. Applicants and submitters on a relevant application may request that the local authority delegate its functions, powers, and duties to hear and decide the application to at least 1 hearings commissioner who is not a member of the local authority.

*Clause 74* amends section 102 to specify who may hear and decide matters in a joint hearing by 2 or more consent authorities if a request has been made under *new section 100A*.

*Clause 75* amends section 103 to specify who may hear and decide matters that are considered together by a local authority if a request has been made under *new section 100A*.

*Clause 76* inserts a *new section 103A*. The new section requires a hearing to be concluded no later than 10 working days after it is adjourned, if it is adjourned after the applicant's right of reply has been exercised

*Clause 77* amends section 104 to add national environmental standards to the matters that must be considered when a consent authority is determining an application and also to ensure that the effects of trade competition are treated in the same way as trade competition itself. The clause also amends section 104 to direct a consent authority to have regard to whether it has adequate information to enable it to determine an application, including whether a request under *new section 92* or section 92A resulted in further information or a report being available

*Clause 78* amends section 104A.

*Clause 79* amends section 104C.

*Clause 80* amends section 113 to ensure that decisions on applications record that national environmental standards were considered. It also clarifies other matters to which the section applies.

*Clause 81* amends section 116 consequentially on *new section 87E*. Section 116 is also amended to remove the special provision for when coastal permits commence. The default commencement provisions now apply to coastal permits.

*Clause 82* substitutes *new section 117*. The new section provides that a regional council is the consent authority for an application to carry out a restricted coastal activity. The section specifies the council's functions, powers, and duties for hearing and deciding on the application, and requires the council to delegate these under section 34A(1). The delegates must include 1 person nominated by the Minister of Conservation.

*Clause 83* repeals sections 118, 119, and 119A. Those sections are redundant because hearing committees no longer make recommendations about coastal permits. Some of the repealed provisions are effectively replaced, under new section 117, by the default provisions that apply to an application for a resource consent.

*Clause 84* amends section 120 so that the right to appeal applies to decisions about coastal permits and the Minister of Conservation may appeal against those decisions.

*Clause 85* amends section 121 to remove a provision that is now redundant because hearing committees no longer make recommendations in relation to coastal permits.

*Clause 86* amends section 128 to require a consent authority to initiate a review of the conditions of a resource consent if required by a court order.

*Clause 87* amends section 130 to apply the relevant provisions to the review of a coastal permit. The provisions are modified by parts of *new section 117* so that, among other things, the functions, powers, and duties relating to review must be delegated under that section. Other consequential amendments are also made.

*Clause 88* amends section 131 to remove reference to hearing committees.

*Clause 89* amends section 132 to apply the default provisions to the decision on review of a coastal permit. Under *new section 117*, any functions, powers, and duties in those provisions that relate to review must also be delegated.

*Clause 90* amends section 139 to allow certificates of compliance to be issued for activities that comply with national environmental standards and to allow the Environmental Protection Authority to issue certificates of compliance if the proposal or activity concerned relates to a matter that is or is part of a proposal of national significance called in by the Minister under section 141B(1).

*Clause 91* repeals and substitutes section 140 which is the definition section that applies to the call in provisions of the Act.

*Clause 92* amends section 141 to clarify the role of the Minister of Conservation.

*Clause 93* inserts *new sections 141AA to 141AAI*. The new sections extend the current call in provisions in the Act, including by involving the Environmental Protection Authority in the process.

*Clause 94* amends section 141A which relates to the Minister's powers to intervene.

*Clause 95* amends section 141B so that, in considering whether a matter is part of a proposal of national significance, the Minister may have regard to whether it relates to a network utility operation that extends, or is proposed to extend, to more than 1 region in New Zealand.

*Clause 96* amends section 143.

*Clause 97* amends section 144.

*Clause 98* updates a cross reference in section 145 and references in other provisions.

*Clause 99* amends section 146 in relation to appointing board members and restricting their liability.

*Clause 100* inserts *new sections 146A to 146D* which relate to the conduct of boards of inquiry relating to requests for regional plans or requests for changes.

*Clause 101* amends section 147.

*Clause 102* amends section 148 to restrict comments on a board of inquiry's draft report to minor or technical aspects of the report.

*Clause 103* amends section 149.

*Clause 104* amends section 149A which relates to appeals.

*Clause 105* amends section 149B.

*Clause 106* amends section 150AA.

*Clause 107* removes an obsolete reference from section 154.

*Clause 108* amends section 168A to update references to notification provisions. Section 168A(2) is amended consequentially on *new sections 87C to 87G*. *New section 100A* is already included in the range of provisions applied by section 168A(2), so that a request for delegation can be made under that section.

*Clause 109* amends section 169.

*Clause 110* amends section 171 so that a territorial authority makes the decision about a requirement for a designation, instead of a recommendation to the requiring authority who then makes the decision.

*Clause 111* repeals section 172, which is now redundant because a requiring authority does not make the decision on its requirement for a designation.

*Clause 112* amends section 173 so that a territorial authority must give notice of its decision, and include the requiring authority as a recipient.

*Clause 113* amends section 174 to refer to the decision of the territorial authority and to add the requiring authority as a person who may appeal against the decision.

*Clause 114* amends section 175 to refer to the decision of the territorial authority (rather than the requiring authority).

*Clause 115* updates cross references in section 176.

*Clause 116* amends section 176A so that a territorial authority can require a requiring authority to change its outline plan, and to let the requiring authority appeal the requirement to make the changes.

*Clause 117* updates a cross reference in section 177.

*Clause 118* amends section 189A.

*Clause 119* amends section 190.

*Clause 120* amends section 191.

*Clause 121* updates a cross reference in section 193A.

*Clause 122* amends section 194.

*Clause 123* amends section 203 to restrict the liability of a member a special tribunal, in the same way as for a member of a board of inquiry under amended sections 47 and 146.

*Clause 124* updates cross references in section 205.

*Clause 125* amends section 206(2) to remove the restriction on the liability of a member of a special tribunal, which has been replaced by a different provision in section 203.

*Clause 126* replaces an outdated reference to the Local Government Act 1974 in section 221.

*Clause 127* updates a cross reference, and replaces an outdated reference to the Local Government Act 1974, in section 224.

*Clause 128* amends section 245 to remove a provision that is now redundant, because the Minister of Conservation's functions have changed.

*Clause 129* amends section 246 to consequentially amend a cross reference.

*Clause 130* amends section 250 to increase the number of Environment Judges who may be appointed from 8 to 10.

*Clause 131* amends section 274 to prevent trade competitors from pursuing one another through appeals to the Environment Court and to make the Attorney-General the only person who can represent the public interest.

*Clause 132* inserts *new section 280A* which relates to extend the scope of an appeal under clause 14 of Schedule 1.

*Clause 133* repeals section 284A. Repealing the section has the effect that the Environment Court can require security for costs.

*Clause 134* amends section 285 consequentially on *new section 87E* and *new Part 11A*.

*Clause 135* repeals section 289 because it is obsolete.

*Clause 136* inserts *new section 290AA* and sets out the powers of the Environment Court in regard to appeals under clause 14 of Schedule 1.

*Clause 137* amends section 293 to clarify that it applies only to proposed policy statements and plans.

*Clause 138* amends section 308 which relates to appeals to the Court of Appeal.

*Clause 139* inserts a *new Part 11A*, which contains provisions stopping trade competitors from using the Act against one another.

*Clause 140* amends section 140.

*Clause 141* amends section 339. The first amendment increases the maximum penalty for certain offences from \$200,000 to \$300,000, in the case of an individual, and to \$600,000, in the case of a body corporate. The penalty of imprisonment is retained for individuals. The second amendment provides that, if a person is convicted of an offence that involves an act or omission that contravenes a resource consent, the court may also make an order requiring a review of the consent to be initiated.

*Clause 142* amends section 352 to provide for the service of documents by email.

*Clause 143* amends section 357A consequentially on *new section 92AB(2)*.

*Clause 144* amends section 358.

*Clause 145* amends section 360.

*Clause 146* replaces outdated references to the Minister of Transport in section 395.

*Clause 147* removes the category of non-complying activities from the Act. The commencement of this provision is delayed by 3 years (see *clause 2(1)*).

*Clause 148* amends Schedule 1. Clause 3C is amended to allow consultation under other legislation that has occurred in the previous 3 years (currently 1 year) to be used in the development of resource management plans. Clause 4 is consequentially amended to update a cross reference and to expressly set out provisions that were previously intended to apply by reference. Clause 13 is amended to omit references to a requiring authority deciding on its requirement,

because they are now redundant. Clause 14 is amended to let a requiring authority appeal against a territorial authority's decision on its requirement. Redundant references to the requiring authority are also removed. Clause 16 is amended to provide that a local authority must make certain amendments to its proposed policy statement or plan without further formality. A provision that related to operative policy statements and plans is removed. Clause 25 is amended to exclude *new section 100A* from applying if the local authority chooses a certain method of dealing with a request for a plan change. That section would already not apply if the other methods were chosen. Other amendments are also made to the Schedule.

*Clause 149* enacts *Schedule 2*, which makes minor amendments to the principal Act.

*Schedule 1* makes amendments consequential on *clause 147*.

*Schedule 2* amends the principal Act to—

- replace references to District Land Registrars or Registrars of Deeds with references to the Registrar-General of Land because District Land Registrars and Registrars of Deeds no longer exist;
- remove a reference to the Hazards Control Commission because the Hazards Control Commission never existed;
- remove references to Schedule 2 because Schedule 2 no longer exists;
- make technical or consequential updates.

## **Part 2**

### **Transitionals and amendments to other enactments**

#### Subpart 1—Transitional provisions

*Clauses 150 to 163* make transitional provisions.

#### Subpart 2—Other enactments

*Clauses 164 to 167* amend enactments other than the principal Act.

*Clause 164* consequentially amends the Costs in Criminal Cases Act 1967 to accommodate the amendments made to section 4 and to the Crown Organisations (Criminal Liability) Act 2002.



*Clause 165* consequentially amends the Crown Organisations (Criminal Liability) Act 2002. The amendments are needed so that a Crown organisation can be prosecuted under that Act for an offence against the Resource Management Act 1991, as required by the amendments to section 4.

*Clause 166* amends the Resource Management Amendment Act 2005.

*Clause 167* consequentially amends the Sentencing Act 2002 to accommodate the amendments made to section 4 and to the Crown Organisations (Criminal Liability) Act 2002.

### **Regulatory impact statement**

*This explanatory note summarises the content of a full Regulatory Impact Statement attached to the Minister for the Environment's Cabinet Paper and considered by Cabinet on 2 February 2009. A copy of the full Regulatory Impact Statement is available on request by contacting the Ministry for the Environment directly or via the websites of the Ministry for the Environment and the Treasury.*

### **Executive summary**

The Resource Management (Simplifying and Streamlining) Amendment Bill 2009 is expected to improve environmental, social and economic outcomes by reducing delays, costs and uncertainty associated with Resource Management Act 1991 (**RMA** or the **Act**) processes. At the highest level, the reforms aim to achieve this objective by:

- addressing frivolous, vexatious and anti-competitive objections
- improving the decision-making process for proposals of national significance and establishing an Environmental Protection Authority
- improving plan development and change processes
- improving resource consent processes
- improving central government direction
- improving the effectiveness of compliance mechanisms
- improving decision making processes
- making minor improvements to enhance the workability of the Act.

The weight of evidence indicates that many applications are delayed substantially by wide-ranging appeal rights and uncertain time-frames, which discourages investment. The overall direction of the amendments is to temper the right to object with the responsibility to behave constructively and reasonably; encouraging objectors to consider more deeply the merits of their case, and whether further action is justified.

The proposed amendments aim to enhance central government's ability to provide guidance on matters of national significance. Clarifying when proposals will be called-in and processed by an Environmental Protection Authority, and improving the call-in provisions is expected to increase the consistency of decisions on proposals that are of national significance and increase certainty amongst the general public, local government and the private sector in terms of RMA interpretation. The reforms also enable the contents of National Policy Statements and Environmental Standards to be incorporated quickly into district plans, which should reduce the time it takes for central government guidance to translate into council decisions.

Reforms such as removing the need for councils to request further submissions on plans aim to accelerate the planning process, and are expected to allow a more timely response to emerging threats and opportunities. Similarly, proposed changes to the notification, assessment and reporting procedures for applications with minor or well-known effects are intended to increase the efficiency of RMA processes.

Many of the proposals are enabling rather than prescriptive (e.g. allowing, rather than requiring, local authorities to allow notification of consents via the internet), which can be expected to reduce costs. While some of the proposed amendments will reduce currently numerous opportunities for public participation, the changes represent a rebalancing and streamlining of resource management decision-making processes, rather than a fundamental reweighting of the underlying philosophy, purpose or principles of the Act.

### *Adequacy statement*

The Regulatory Impact Analysis Team (**RIAT**) has reviewed this Regulatory Impact Statement (**RIS**) and considers it to contain the required information and accurately reflect the analysis undertaken.

RIAT considers the RIA to be adequate in relation to most of the proposals in the policy package, though the timeframe for its development has limited the scope for full consultation on all aspects of the package. However, this has been mitigated by the long-standing consultation and discussion that has occurred on many of the issues, as well as the targeted consultation that has been undertaken within the available time.

However, RIAT considers the RIA in relation to some aspects of package, including proposals to address anti-competitive use of RMA provisions and the change to when rules in a proposed plan have legal effect, to be inadequate as these proposals were developed extremely late in the process and were not able to be subject to appropriate analysis and consultation.

### *Status quo and problem*

The RMA is the principal legislation for managing New Zealand's environment and allocating rights for access to most natural resources. The RMA is a complex piece of legislation that seeks to balance social, cultural, economic and environmental matters – decisions made under the RMA often address some of the most controversial and contested issues facing New Zealand and play a crucial role in both environmental and socio-economic outcomes.

The RMA has been designed to operate on the basis that resource management decisions should be made by the authority that has the best available information, will be most affected by those decisions and therefore is best placed to promote sustainable management. Responsibility for implementing the RMA is, therefore, devolved to local authorities and the role of central government is to set policy on matters of national significance, provide support and training, and monitor the implementation of the Act. The high degree of devolution under the RMA coupled with a lack of clear central government direction has, however, exacerbated capacity issues in local government and led to variability in planning controls and the speed and quality of consent processing. In this context the RMA has been crit-

icised for contributing to unnecessary delays and compliance costs that hinder efficient implementation, economic growth and major infrastructure development.

Problems with the RMA relate in particular to:

- the clarity and effectiveness of central government direction
- the balance between public participation and timely and efficient processes
- the effectiveness of local government plan making processes
- the efficiency and effectiveness of resource allocation mechanisms.

While all are important, some problems are more complex than others and require further data collection analysis and consultation before appropriate solutions can be formulated. The government, therefore, proposes to address problems with the RMA in a series of phases. This Regulatory Impact Statement is associated with the first phase of reform aimed at streamlining, simplifying and improving RMA processes. Subsequent reform will address key environmental issues including infrastructure, water management, urban design and the role and functions of the Environmental Protection Authority (EPA). The content of this initial reform package has been designed with the intended nature of subsequent reforms in mind and will not, with the exception of the transitional provisions governing the creation of the EPA, require further amendment.

The overarching policy objective and high-level policy options set out below are followed by sections discussing specific problems, targeted objectives and options for achieving them in a manner that promotes achievement of the overarching policy objective.

### ***Overarching policy objective***

To reduce delays, costs and uncertainty associated with Resource Management Act processes, and thereby help improve environmental, social and economic outcomes.

### ***High level policy options***

- *Improve clarity and effectiveness of central government intervention.* A clear and transparent strategy guiding the use of central government's RMA powers would improve their ef-

fectiveness but, unless supported by legislative amendment, would not be sufficient to address the range of problems with RMA implementation and decision-making.

- *Increase local government resourcing.* One way to improve RMA performance would be for central government to significantly increase its funding of local government. This will not, however, guarantee more effective implementation and will not address the question of how to appropriately balance national interests against local interests in a local decision-making forum.
- *Provide further non-statutory guidance.* Non-statutory guidance plays an important role in assisting accurate interpretation and promoting improved performance. In isolation, however, non-statutory guidance will not guarantee effective or consistent implementation as compliance is voluntary.
- *Draft special purpose legislation.* While potentially effective, this option could counteract the principle of integrated management and would risk undermining the integrity of New Zealand's resource management framework.
- *Amend related legislation.* There are options available but they are complex and may have significant or unintended implications that can not easily be identified within the timeframe set for the first phase of reform.
- *Amend the RMA to improve, streamline, and simplify processes.* There are a range of amendment options available to increase the consistency, speed and quality of planning controls and consent processes. In some instances, effective options are likely to include reduced opportunities for public participation and greater reliance on centralised rather than devolved decision-making. Amendments to the RMA could increase the effectiveness and efficiency of central government intervention and consent processing for nationally significant proposals to ensure that matters of national importance are appropriately factored into local decisions. There are also options available to improve the workability of the statute by correcting inaccuracies and omissions, and to increase the efficiency of decision-making processes and the effectiveness of compliance mechanisms.

Directly amending the RMA is considered the most effective means for achieving the government's objective in a timely and certain manner.

### *Specific problems and preferred policy options*

#### **A. Frivolous, vexatious, and anti-competitive objections**

The RMA does not effectively deter some submitters and appellants from opposing applications on the basis of arguments that have little or no merit. Nor does the RMA effectively prevent anti-competitive behaviour by trade competitors. The government intends to reduce costs and delays arising from submissions and appeals that are frivolous or vexatious, or motivated by anti-competitive behaviour by:

- reinstating the power of the Environment Court to require security for costs and allowing the Courts to award more extensive costs, including indemnity and punitive costs
- preventing trade competitors from participating in proceedings unless they are directly affected by a potential adverse effect of the activity on the environment
- making it explicit that decision-makers are prohibited from having regard to trade competition or its effects in relation to resource consent applications, notices of requirement, the preparation of plans and policy statements, and notification decisions
- discouraging covert opposition of trade competitors through third parties.

Taking action to reduce opposition motivated by frivolous and vexatious concerns will improve the quality of arguments put to decision-makers and has the potential to significantly reduce costs for the Court, applicants and local government. Increasing penalties associated with anti-competitive behaviour and introducing new tools for effectively addressing this behaviour has the potential to significantly increase New Zealand's economic productivity and efficiency. In both instances these benefits are expected to outweigh the consequences of limiting opportunities for public participation.

**B. Decisions on proposals of national significance**

At present, it is very likely that decisions on most significant roads, transmission infrastructure and other large scale infrastructure projects will be appealed to the Environment Court. Indirect costs associated with delays and uncertain timeframes and the direct costs of defending or mounting appeals have the potential to threaten the viability of projects that are in the national interest. The government intends to reduce the time it takes to reach decisions on significant projects while still maintaining effective public participation and promoting the sustainable management of natural and physical resources by:

- providing guidance to clarify criteria determining eligibility for call-in and enabling councils, applicants and/or requiring authorities that comply with these criteria to submit their resource consent application, notice of requirement for a designation or related private plan change directly to an EPA that will process applications in accordance with an enhanced call-in process
- limiting appeals on decisions of Boards of Inquiry and the Environment Court on matters that are called-in to the High Court and then to the Supreme Court in exceptional circumstances
- enabling parties to apply directly to the EPA for certificates of compliance associated with matters of national significance.

Improving call-in provisions, and providing guidance to clarify eligibility criteria and thresholds, is expected to significantly reduce the length of time it takes between lodging an application and receiving a decision on proposals of national significance; in some cases these savings could be measured in years. Greater consistency in decisions on proposals that are of national significance will increase certainty amongst the general public, local government and the private sector in terms of RMA interpretation and implementation. In particular, increasing certainty around processes and timeframes is expected to improve investment certainty. Limiting the number of hearings and removing the opportunity to appeal on merit does reduce the opportunities for public participation in decision-making on significant projects. The process does, however, preserve the right of the public to submit on proposals and allows the board of inquiry to respond to local issues by building flexibility into board appointments and hearings processes. On balance it is considered that the benefits of greater

efficiency, clarity and consistency outweigh the effects of reducing opportunities for public participation.

### **C. Environmental Protection Authority**

The government intends to establish a body that can provide efficient and timely administration of proposals that are called-in by:

- establishing an EPA as a statutory office within the Ministry for the Environment as a transitional arrangement, with the role of statutory officer to be exercised by the Secretary for the Environment.

The establishment of an EPA to centralise processing of proposals that are called-in will facilitate more efficient, consistent and transparent decision-making on proposals of national significance. The financial cost of establishing and operating the EPA will not outweigh these benefits.

### **D. Improving plan development and change processes**

Cumbersome planning processes have hampered the ability of councils to respond quickly to changing conditions or emerging environmental issues. The government intends to improve the quality of plans and facilitate timely plan development and amendment to enable rapid responses to changing conditions or emerging environmental issues, while retaining an appropriate degree of public participation and legal right to redress. The government will achieve this by:

- increasing the flexibility of processes governing plan development, the correction of minor errors and reporting on decisions
- increasing the range of available alternatives for service and notification of plan changes, and associated proceedings
- removing the non-complying class of activities
- removing the mandatory obligation to review district plans every 10-years and encouraging the development of combined district and regional plans and policy statements
- removing the requirement for local authorities to summarise submissions or call for further submissions, and requiring local authorities to consult with and have regard to the views of



anyone who they consider may be affected by matters raised in submissions

- clarifying the time at which proposed plan provisions have legal effect
- limiting appeals on plans to the Environment Court on questions of law, except in cases where the appellant has gained the leave of the Court to appeal on the merit of a decision.

Significantly reduced administrative requirements in relation to plan and plan change development processes could enable councils to devote more resources to policy development and the evaluation of alternative policy options. Increasing the flexibility of consultation requirements, limiting the scope of submissions and appeals, and empowering councils to correct minor errors in plans has the potential to significantly reduce the time it takes to make plan provisions operative. This will help clarify the local planning framework which will benefit the general public, private enterprise and community groups. A more efficient plan development process is expected to promote more timely council responses to new information and emerging issues. Overall it is considered that these benefits outweigh the effects of constraining the scope of and reducing opportunities for appeal.

#### **E. Improving resource consent processes**

Statistics gathered by the Ministry for the Environment indicate that only 74% of non-notified consents and 56% of notified consents are processed within statutory timeframes and that performance has tracked steadily downwards over the past six years. The government intends to reduce the cost and time it takes to come to a decision on resource consent applications, while maintaining an appropriate degree of public participation and legal right to redress by:

- modifying notification requirements to clarify criteria for notification
- increasing options for service and notification
- narrowing the scope of matters decision-makers are required to have regard to when considering applications for controlled and restricted discretionary activities
- simplifying the reporting requirements for minor activities and proposals that do not require public notification

- deleting existing blanket tree protection rules in urban areas and prohibiting local authorities from imposing rules of this type in the future
- amending processes relating to local authorities' requests for further information
- requiring all councils to develop a discount policy in respect of breaches of statutory timeframes.

Clearer and more efficient notification, assessment and reporting requirements will substantially reduce administrative burdens and facilitate more effective work allocation within local authorities. This is expected to reduce the time it takes to process resource consents. Amendments to the provisions governing requests for further information are likely to promote more timely and certain consent acquisition timeframes. It is considered that the benefits of clearer and more efficient processes will outweigh the potential costs associated with a possible reduction in opportunities for public participation.

#### **F. Improving central government direction**

There is no overall strategy for the use of national RMA instruments, and the instruments themselves can be cumbersome, inflexible and difficult to implement. This has created a lack of certainty for all parties involved about when and how central government will intervene in RMA processes and has reduced the effectiveness of national RMA instruments. The government intends to increase the efficiency and effectiveness with which national RMA instruments are developed and implemented by:

- broadening the scope of matters the Minister of Conservation and the Minister for the Environment are able to call-in
- providing the relevant Minister with explicit powers to cancel, postpone, and restart a national policy statement process before it has been gazetted, and powers to make minor amendments to national environmental standards in an efficient and timely manner
- truncating the process of amending plans and policy statements in response to national policy statements and national environmental standards, and limiting the scope of appeals on changes

- clarifying the responsibilities of local authorities in relation to national environmental standards and the effect of these standards.

More flexible and efficient provisions governing the development and implementation of national environmental standards and national policy statements will facilitate the articulation of effective environmental bottom lines and policy expectations. Increasing the effectiveness of central government direction and easing local government implementation is expected to foster greater certainty and reduce the costs of implementing and complying with the RMA across all sectors. These benefits will outweigh the associated reduction in local discretion over interpretation and implementation of the Act.

### **G. Improving the effectiveness of compliance mechanisms**

The resourcing of RMA monitoring and enforcement throughout New Zealand is variable and in some areas councils lack either (or both) the ability to effectively detect non-compliance or to take enforcement action. The government intends to ensure that the RMA enforcement regime acts as an effective deterrent to non-compliance by:

- increasing the flexibility and scope of enforcement powers and responsibilities
- raising the maximum fine for committing an offence
- giving the Environment Court powers to direct a review of a resource consent where it is connected to an offence that has been committed
- remove the provisions of the Act that protect the Crown from enforcement action.

The proposed extensions to the powers of local authorities and the Courts are expected to reduce costs associated with enforcement and the remediation of environmental damage, and to ensure that the Courts are able to more effectively recover unpaid fines.

### **H. Improving decision making processes**

There is concern amongst applicants at the objectivity, skills and knowledge of some elected council representatives who currently act as first instance decision-makers. Ongoing concern has also been expressed by a variety of parties at the role of the Minister of Conser-

vation in regard to activities in the coastal marine area. Applicants, submitters and local authorities are often faced with increased costs and time delays when applications that have been through a council hearing are re-heard again in the Environment Court, even though it was plain from the start that the application would inevitably be appealed to the Environment Court. Low Environment Court filing fees do little to discourage the lodgement of poorly conceived appeals, and do not indicate to appellants the seriousness of the consequences and expense all parties will incur if the appeal proceeds further. The government intends to increase the efficiency of decision-making processes under the RMA by:

- allowing applicants for and submitters on resource consents and notices of requirement to require at least one independent commissioner on a decision panel, provided that the party making the request bears any additional costs
- enabling applicants for resource consents and notices of requirement to request that their application be directly referred to the Environment Court for a decision, provided that the permission of the local authority that would otherwise have made the decision has been obtained
- clarifying that local authorities can delegate the power to make decisions on plan changes to staff or any other person
- increasing the filing fee for lodging appeals with the Environment Court to \$500 (inclusive of GST)
- removing the Minister of Conservation's final decision-making role in relation to restricted coastal activities and matters called-in by the Minister
- requiring hearings to be formally closed no later than 10 working days after the last party has completed presentations
- requiring decisions on applications for designations to be made by the relevant local authority.

Increasing filing fees, tightening hearing processes and providing greater flexibility as to who can make decisions will increase the rigour of decisions and decision-making processes under the RMA. Better quality submissions and appeals, and more robust decisions are expected to result; increasing the general level of confidence in the RMA decision-making process. In particular, the proposals will also lead to faster, more transparent, decision making on consent ap-

plications for activities in the coastal marine area. Improving the independence of decision-making on notices of requirement will increase confidence in the process. The increased filing fees are unlikely to act as a substantial barrier to legitimate public participation in RMA processes. The proposal to provide for direct referral of applications to the Environment Court could discourage public participation and may be open to abuse by local authorities seeking to avoid costly and controversial decisions. It does, however, have the potential to lead to significant time and overall cost savings. On balance the savings to applicants for resource consents and plan changes and savings to local authorities and the Environment Court will outweigh the potential effects on public participation.

#### **I. Other matters to improve workability**

Some of the timeframes for local authority obligations and public participation can create unnecessary procedural delays or compliance difficulties. There are also a number of minor and technical errors in the RMA that reduce its workability. The government intends to remove and replace redundant technical provisions with enforceable ones, and make minor procedural changes to avoid unnecessary delays and improve processes.

Improving the consistency, efficiency and enforceability of the statutory provisions is expected to facilitate more equitable and effective implementation of the RMA. Reducing the influence of those who seek to join as parties to other appeals will complement efforts to address misuse of the RMA for anti-competitive purposes.

#### ***Implementation and review***

Legislative amendments will be complemented by guidance and communications material to assist local authorities in understanding how the amendments will impact on them, their processes, and how they are expected to respond.

After the bill is enacted in late-2009 the Ministry for the Environment will commence monitoring the effect and implementation of the Act, investigate performance and take actions to remedy poor implementation in accordance with the functions and powers of the Minister for the Environment currently set out the RMA.

### *Consultation*

The government's timeframe for implementing the first phase of RMA reform has ruled out comprehensive public consultation—best endeavors were, however, made to ensure public and professional input into the policy development process.

In late-2008 the government's cross-departmental natural resources network considered the Ministry for the Environment's most recent monitoring data and agreed on a set of core problems with the RMA. From November 2008 to January 2009 the Ministry for the Environment convened a working group of officials from all government departments and conducted a series of workshops to identify potential solutions to address these problems.

On 1 December 2008, the Minister for the Environment sent a letter to all local authorities inviting comment on potential options for addressing problems with the RMA and any further suggestions. The Minister's request was complemented by postings on the Ministry for the Environment website inviting comments and suggestions.

On 16 December 2008 the Minister for the Environment announced the appointment of a Technical Advisory Group (**TAG**) to support the Government's programme of reform of the RMA. Between December 2008 and January 2009 the TAG, supported by Ministry for the Environment officials, held six full-day meetings to consider potential options for addressing problems with the RMA. All responses to the Minister's request were analysed and suggested amendments evaluated by the officials working group and TAG.

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*Hon Dr Nick Smith*

**Resource Management  
(Simplifying and Streamlining)  
Amendment Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Resource Management (Simplifying and Streamlining) Amendment Act **2009**.
- 2 Commencement** 5  
  - (1) **Section 147** and **Schedule 1** come into force 3 years after the date on which the rest of this Act comes into force under **subsection (3)**.
  - (2) **Section 151(1) and (2)** come into force 2 years after the date on which the rest of this Act comes into force under **subsection (3)**. 10
  - (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended** 15  
This Act amends the Resource Management Act 1991.

**Part 1  
Amendments to principal Act**

- 4 Interpretation**

  - (1) This section amends section 2(1).
  - (2) The definitions of **amendment**, **board of inquiry**, and **declaration** are repealed. 20
  - (3) The following definitions are inserted in their appropriate alphabetical order:

- “**Crown organisation** has the same meaning as in section 4 of the Crown Organisations (Criminal Liability) Act 2002
- “**Environmental Protection Authority** or **Authority** means the Environmental Protection Authority established under **section 42B** 5
- “**proposed policy statement** has the meaning given in **section 43AA**
- “**use**,—
- “(a) in **sections 9, 10, 10A, 10B, and 176(1)(b)(i)**, means— 10
- “(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: 15
- “(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, and 176(1)(b)(i)**, also means to enter onto or pass across the surface of water in a lake or river”. 20
- (4) The definition of **applicant** is repealed and the following definition substituted:
- “**applicant**,— 25
- “(a) in sections 40, 41B, **41BA, 41BB**, and 41C, means the person who initiates a matter described in section 39(1):
- “(b) in **sections 87C to 87G**, means the person who initiates a matter described in section 39(1)(b), (c), (d), or (f): 30
- “(c) in **section 92AB**, means the person who initiates a matter described in section 39(1):
- “(d) in **section 96**, means the person who—
- “(i) initiates a matter described in section 39(1)(b), (c), or (d); or 35
- “(ii) initiates a requirement for a designation:
- “(e) in sections 141 to 150AA, has the meaning given to it by **section 140**”.



- (5) The definition of **certificate of compliance** is amended by omitting “local authority” and substituting “consent authority or the Environmental Protection Authority”.
- (6) The definition of **change** is repealed and the following definition substituted: 5  
 “**change** has the meaning given in **section 43AA**”.
- (7) The definition of **consent authority** is repealed and the following definition substituted:  
 “**consent authority** means—  
 “(a) 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; and 10  
 “(b) in relation to a restricted coastal activity, the regional council for the region concerned” 15
- (8) The definition of **district plan** is repealed and the following definition substituted:  
 “**district plan** has the meaning given in **section 43AA**”.
- (9) The definition of **district rule** is repealed and the following definition substituted: 20  
 “**district rule** has the meaning given in **section 43AAB**”.
- (10) The definition of **land** is repealed and the following definition substituted:  
 “**land**— 25  
 “(a) includes land covered by water and the air space above land; and  
 “(b) in **section 9(1)**, does not include the bed of a lake or river; and  
 “(c) in **section 9(2)**, includes the surface of water in a lake or river” 30
- (11) The definition of **operative** is repealed and the following definition substituted:  
 “**operative** has the meaning given in **section 43AA**”.
- (12) The definition of **plan** is repealed and the following definition substituted: 35  
 “**plan** has the meaning given in **section 43AA**”.

- (13) The definition of **policy statement** is repealed and the following definition substituted:  
“**policy statement** has the meaning given in **section 43AA**”.
- (14) The definition of **proposed plan** is repealed and the following definition substituted: 5  
“**proposed plan** has the meaning given in **section 43AAC**”.
- (15) The definition of **proposed policy statement** is repealed and the following definition substituted:  
“**proposed policy statement** has the meaning given in **section 43AA**”.
- (16) The definition of **public notice** is repealed and the following definition substituted: 10  
“**public notice**—  
“(a) means a notice published in a newspaper circulating in the entire area likely to be affected by the proposal to which the notice relates; and 15  
“(b) if a local authority also publishes a notice on an Internet site to which the public have free access, includes that notice”.
- (17) The definition of **regional coastal plan** is repealed and the following definition substituted: 20  
“**regional coastal plan** has the meaning given in **section 43AA**”.
- (18) The definition of **regional plan** is repealed and the following definition substituted: 25  
“**regional plan** has the meaning given in **section 43AA**”.
- (19) The definition of **regional policy statement** is repealed and the following definition substituted:  
“**regional policy statement** has the meaning given in **section 43AA**”.
- (20) The definition of **regional rule** is repealed and the following definition substituted: 30  
“**regional rule** has the meaning given in **section 43AAB**”.
- (21) The definition of **restricted coastal activity** is repealed and the following definition substituted: 35  
“**restricted coastal activity** means any discretionary activity or non-complying activity which, in accordance with section

- 68, is stated by a regional coastal plan to be a restricted coastal activity”.
- (22) The definition of **rule** is repealed and the following definition substituted:  
 “**rule** has the meaning given in **section 43AA**”. 5
- (23) The definition of **submission** is repealed and the following definition substituted:  
 “**submission** means a written or electronic submission”.
- (24) The definition of **survey plan** is repealed and the following definition substituted: 10  
 “**survey plan**—  
 “(a) means—  
     “(i) a plan of subdivision of land, or a building or part of a building, prepared in a form suitable for deposit under the Land Transfer Act 1952; and 15  
     “(ii) an SO plan of a subdivision by or on behalf of a Minister of the Crown of land not subject to the Land Transfer Act 1952; and  
 “(b) includes—  
     “(i) a unit plan; and 20  
     “(ii) a plan to give effect to the grant of a cross lease or company lease”.
- (25) The definition of **variation** is repealed and the following definition substituted:  
 “**variation** has the meaning given in **section 43AA**”. 25
- 5 Act to bind the Crown**
- (1) Section 4(1) is repealed and the following subsection substituted:  
 “(1) This Act binds the Crown, except as provided in this section.”
- (2) Section 4(3) is amended by omitting “Section 9(1)” and substituting “**Section 9(2)**”. 30
- (3) Section 4(5) is repealed and the following subsections are substituted:  
 “(5) An abatement notice or excessive noise direction may be served or issued against the Crown in accordance with this Act. 35

- “(6) An enforcement order may be made against the Crown in accordance with this Act, but only a local authority may apply for the order, despite section 316.
- “(7) An instrument of the Crown may be served with an infringement notice in accordance with this Act, but only if it is liable to be proceeded against for the alleged offence under **subsection (8)**. 5
- “(8) An instrument of the Crown may be prosecuted for an offence against this Act only if—
- “(a) it is a Crown organisation; and 10
  - “(b) the offence is alleged to have been committed by the Crown organisation; and
  - “(c) the proceedings are commenced—
    - “(i) by a local authority or an enforcement officer; and 15
    - “(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. 20
- “(9) The Crown may not be prosecuted for an offence against this Act, except to the extent and in the manner provided for in **subsection (8)**.”
- 6 New section 9 substituted** 25  
Section 9 is repealed and the following section substituted:
- “9 Restrictions on use of land**
- “(1) No person may use land in a manner that contravenes a national environmental standard or a regional rule unless the use—
- “(a) is expressly allowed by a resource consent; or 30
  - “(b) is an activity allowed by section 20A.
- “(2) No person may use land in a manner that contravenes a national environmental standard or a district rule unless the use—
- “(a) is expressly allowed by a resource consent; or 35
  - “(b) is allowed by section 10; or
  - “(c) is an activity allowed by section 10A.

- “(3) No person may contravene a designation, a requirement referred to in section 178(1) or 194(1), or a heritage order unless the person obtains the prior written consent of the requiring authority or the heritage protection authority.
- “(4) 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. 5
- “(5) This section does not apply to use of the coastal marine area.”
- 7 Certain existing uses in relation to land protected** 10  
Section 10(6) is repealed.
- 8 Certain existing building works allowed**  
Section 10B(4) is repealed and the following subsection substituted:
- “(4) Section 10(4) and (5) applies to this section.” 15
- 9 Restrictions on subdivision of land**  
Section 11(1)(a) is repealed and the following paragraph substituted:
- “(a) both expressly allowed by a national environmental standard, a district rule, or a resource consent and covered by one of the following: 20
- “(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 25
- “(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”. 30

**10 Restrictions on use of coastal marine area**

- (1) Section 12(1) is amended by omitting “rule in a regional coastal plan and in any relevant proposed regional coastal plan” and substituting “national environmental standard, a rule in a regional coastal plan or a proposed regional coastal plan,”. 5
- (2) Section 12(2) is amended by omitting “rule in a regional coastal plan and in any relevant proposed regional coastal plan or by” and substituting “national environmental standard, a rule in a regional coastal plan or a proposed regional coastal plan, or”. 10
- (3) Section 12(3) is amended by inserting “a national environmental standard or” after “contravenes”.
- (4) Section 12(4) is amended by inserting “national environmental standard or the” after “but for the”. 15
- (5) Section 12(5) is repealed and the following subsection substituted:
- “(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.” 20

**11 Restriction on certain uses of beds of lakes and rivers**

- (1) Section 13(1) is amended by omitting “rule in a regional plan and in any relevant proposed regional plan” and substituting “national environmental standard, a regional rule,”. 25
- (2) Section 13(2) is repealed and the following subsections are substituted:
- “(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— 30
- “(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 plant, whether exotic or indigenous, in, on, or under the bed of a lake or river: 35

- “(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.” 5

**12 Restrictions relating to water**

- (1) Section 14(1) and (2) are repealed and the following subsections substituted:
  - “(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— 10
    - “(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): 15
    - “(a) water other than open coastal water; or
    - “(b) heat or energy from water other than open coastal water; or 20
    - “(c) heat or energy from the material surrounding geothermal water.”
- (2) Section 14(3) is amended by omitting “subsection (1)” and substituting “**subsection (2)**”.
- (3) Section 14(3)(a) is amended by omitting “use, damming, or diversion is expressly allowed by a rule in a regional plan and in any relevant proposed regional plan” and substituting “using, damming, or diverting is expressly allowed by a national environmental standard, a regional rule,”. 25

**13 Discharge of contaminants into environment** 30

- (1) Section 15(1) is amended by omitting “rule in a regional plan and in any relevant proposed regional plan, a resource consent, or regulations” and substituting “national environmental standard or other regulations, a regional rule, or a resource consent”. 35

- (2) Section 15(2) is repealed and the following subsections substituted:
- “(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— 5
- “(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— 10
- “(a) is expressly allowed by a national environmental standard or other regulations; or 15
- “(b) is expressly allowed by a resource consent; or
- “(c) is an activity allowed by section 20A.”
- 14 Duty to avoid unreasonable noise**
- Section 16(2) is repealed and the following subsection substituted: 20
- “(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).”
- 15 Duty to avoid, remedy, or mitigate adverse effects** 25
- Section 17(1) is repealed and the following subsection substituted:
- “(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— 30
- “(a) any of sections 10, 10A, 10B, and 20A; or
- “(b) a national environmental standard, a rule, a resource consent, or a designation.”



- 16 Sections 19 and 20 and heading above section 19 repealed**  
Sections 19 and 20 and the heading above section 19 are repealed.
- 17 New heading inserted**  
The following heading is inserted above section 20A: 5  
“*Certain existing lawful activities allowed*”.
- 18 New section 22 substituted**  
Section 22 is repealed and the following section substituted:
- “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. 10
- “(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: 15
- “(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: 20
- “(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.” 25
- 19 New section 25B inserted**  
The following section is inserted after section 25A:
- “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 and, if he or she does so, must specify a reasonable period within which the review must commence. 30
- “(2) The Minister of Conservation may direct a regional council to commence a review of the whole or any part of its regional 35

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. 5
- “(4) For the purposes of **subsections (1) to (3)**, section 79(3) to (6) applies to the review with any necessary modification.”

## **20 Functions of Minister of Conservation**

- (1) Section 28(c) is repealed. 10
- (2) Section 28(d) is amended by adding “under section 31A”.

## **21 Delegation of functions by Ministers**

- (1) Section 29(1)(a) to (h) are repealed and the following paragraphs substituted:
- “(a) certifying any work or activity under section 4: 15
- “(b) appointing persons to exercise or perform functions, powers, or duties in place of a local authority under section 25:
- “(c) recommending the making of a national environmental standard under **section 44**: 20
- “(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:
- “(e) making decisions on whether and, if relevant, how to intervene in a matter under section 141A: 25
- “(f) recommending the making of an Order in Council under section 150C:
- “(g) recommending the making of an Order in Council under section 165O:
- “(h) approving an applicant as a requiring authority under section 167: 30
- “(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: 35

“(k) recommending the appointment of an Environment Judge or alternate Environment Judge under section 250:	
“(l) recommending the appointment of the Principal Environment Judge under section 251:	5
“(m) recommending the appointment of an Environment Commissioner or Deputy Environment Commissioner under section 254:	
“(n) recommending the making of regulations under section 360:	10
“(o) approving a regional coastal plan under clause 19 of Schedule 1:	
“(p) making a decision on any controls to be imposed on a recognised customary activity under Schedule 12:	
“(q) this power of delegation.”	15
(2) Section 29 is amended by adding the following subsections:	
“(4) The Minister may, in writing, delegate to the Environmental Protection Authority his or her functions, powers, and duties under sections 144, 145, and 147.	
“(5) A delegation under <b>subsection (4)</b> —	20
“(a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the Authority; and	
“(b) does not prevent the Minister from performing the functions or duties, or exercising the powers concerned.”	25
<b>22 Delegation of powers and functions to employees and other persons</b>	
(1) Section 34A(1)(a) is repealed and the following paragraph substituted:	
“(a) the approval of a proposed policy statement or plan under clause 17 of Schedule 1:”	30
(2) Section 34A(2)(c) is repealed and the following paragraph substituted:	
“(c) the making of a decision on a requirement for a designation.”	35

**23 Duty to gather information, monitor, and keep records**

- (1) Section 35(5)(f) is amended by inserting “national environmental standard or” after “any”.
- (2) Section 35(5)(ga) is amended by omitting “94C” and substituting “**94AAE**”.

5

**24 Administrative charges**

- (1) Section 36(1) is amended by inserting the following paragraph after paragraph (a):

“(ab) charges payable by, and to be shared equally between, all persons who make a request under **section 100A** in relation to an application for a resource consent, for any amount by which the cost of deciding the application in accordance with the request exceeds what it would otherwise have cost to decide the application:”.

10

- (2) Section 36(1)(b) is amended by inserting “any 1 or more” after “local authority of”.

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- (3) Section 36(1)(cb) is amended by inserting “any 1 or more” after “local authority of”.

- (4) Section 36(1)(d) is amended by inserting “any 1 or more” after “local authority of”.

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**25 New section 36AA inserted**

The Act is amended by inserting the following section after section 36:

**“36AA Local authority to adopt policy on discounting administrative charges for failure to meet consent processing deadlines**

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- “(1) A local authority must 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—

30

“(a) a resource consent is not processed within the time frames set out in this Act; and

“(b) the responsibility for the failure rests with the local authority.

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- “(2) The policy must specify—

- “(a) the discount, or the method for determining the discount, that an applicant for a resource consent would receive for any application fees or charges paid or owing; and
- “(b) the procedure an applicant must follow to obtain the discount. 5
- “(3) A policy adopted under this section must be operating no later than 12 months after the commencement of **section 25 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009**.” 10
- 26 Persons to have powers of consent authority for purposes of sections 37 and 37A**
- Section 37B(a) is repealed and the following paragraphs substituted:
- “(a) the Minister, while carrying out his or her functions under **sections 141A** to 150AA:” 15
- 27 Authorisation and responsibilities of enforcement officers**
- (1) Section 38(3)(a) is amended by adding “under section 31A”.
- (2) Section 38(3)(b) is repealed.
- 28 Provisions relating to hearings** 20
- (1) The heading to section 41 is repealed and the heading “**Procedural provisions relating to hearings**” is substituted.
- (2) Section 41(4) is repealed.
- 29 Control of hearings**
- Section 41A is amended by omitting “section 41B or section 41C” and substituting “any of sections 41B to **41D**”. 25
- 30 New sections 41BA and 41BB inserted**
- The following sections are inserted after section 41B:
- “41BA Reports before hearings**
- “(1) Before the hearing, the authority may require a person described in **subsection (2)** to prepare a report on— 30
- “(a) information provided by the applicant; or

- “(b) information provided by a person who made a submission.
- “(2) The persons are—
  - “(a) an officer of a local authority as defined in section 42(6):
  - “(b) a consultant commissioned for the purpose: 5
  - “(c) any other person employed for the purpose.
- “(3) A report under **subsection (1)** does not need to repeat material in the assessment of environmental effects included in the application under section 88(2)(b). Instead, it may—
  - “(a) adopt the whole assessment; or 10
  - “(b) adopt a part of the assessment by giving a reference to the part adopted; or
  - “(c) adopt some of the material in the assessment by giving a reference to the material.
- “(4) Before the hearing, the authority may commission a consultant or any other person to prepare a report on any matter relating to an application, including—
  - “(a) information provided by the applicant in the application; or
  - “(b) information provided by the applicant under **section 92**. 20
- “(5) However, the authority may commission a report under **subsection (4)** only if—
  - “(a) the activity that is the subject of the hearing may, in the authority’s opinion, have a significant adverse environmental effect; and 25
  - “(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. 30
- “(6) The authority must notify the applicant in writing that it wants to commission a report under **subsection (4)** and give its reasons for wanting to do so.
- “(7) The authority must decide whether or not to require a report under this section a reasonable time before the hearing. 35
- “(8) A report under this section may be considered at the hearing.

- “(9) A copy of a report under this section must be sent to the applicant and every person who made a submission and stated a wish to be heard at the hearing.
- “(10) **Subsection (9)** does not apply to a report referred to in **subsection (4)** if the applicant refuses to agree to the commissioning of the report. 5
- “(11) The time at which copies of reports must be sent under **subsection (9)** depends on whether or not the authority gives a direction under section 41B. The copies must be sent at a time that ensures that the applicant and every person who made a submission and stated a wish to be heard at the hearing receive them— 10
- “(a) at least 15 working days before the hearing, if the authority gives a direction; or
  - “(b) at least 5 working days before the hearing, if the authority does not give a direction. 15
- “(12) The authority may waive compliance with **subsection (9)** if—
- “(a) it is satisfied that there is no material prejudice to any person who should have been sent a copy of the report; 20
  - or
  - “(b) it is not aware of any material prejudice to any person who should have been sent a copy of the report.
- “**41BB Reports at hearings** 25
- “(1) At the hearing, the authority may commission a consultant or any other person to prepare a report on any matter on which the authority requires further information, if all the following apply: 25
- “(a) the activity that is the subject of the hearing may, in the authority’s opinion, have a significant adverse environmental effect; and 30
  - “(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. 35
- “(2) A copy of the report must be sent to the applicant and every person who made a submission and stated a wish to be heard at the hearing.

“(3) **Subsection (2)** does not apply if the applicant refuses to agree to the commissioning of the report.”

### **31 Directions and requests before or at hearings**

(1) Section 41C(4) is repealed.

(2) Section 41C(5) is repealed and the following subsection substituted: 5

“(5) The following provisions apply to information provided under subsection (2) or (3):

“(a) for information provided under subsection (2), the authority must send a copy to the applicant and every person who made a submission (except the person who provided the information): 10

“(b) for information provided under subsection (3), the authority must send a copy to every person who made a submission.” 15

(3) Section 41C(7) is amended by inserting the following paragraph after paragraph (b):

“(ba) that the whole submission, or the part, is not made in compliance with whichever of **section 308B(2)** or **clause 6(4) or 29(1B)** of Schedule 1 applies to it; or”. 20

### **32 New section 41D inserted**

The following section is inserted after section 41C:

#### **“41D Information and advice at hearings**

“(1) At the hearing, the authority may receive any information or advice that is relevant and reasonably necessary to determine the application. 25

“(2) The authority may request one of the following persons to provide the information or advice:

“(a) a person who makes a report under **section 41BA or 41BB**: 30

“(b) a person who is heard by the authority at the hearing:

“(c) a person who is represented at the hearing.

“(3) If the authority decides to make a request, it must make the request a reasonable time before the hearing.



- “(4) The person must provide the information to the office of the consent authority no later than 10 working days before the hearing of the application.”
- 33 Protection of sensitive information** 5  
 Section 42(6)(b) is repealed and the following paragraph substituted:
- “(b) **local authority** includes—
- “(i) a board of inquiry appointed under section 47 or 146:
  - “(ii) a community board: 10
  - “(iii) a public body:
  - “(iv) a special tribunal:
  - “(v) a person given authority to conduct hearings under any of section 33, 34, 34A, **117**, and 202.”
- 34 Section 42A and heading above section 42A repealed** 15  
 Section 42A and the heading above section 42A are repealed.
- 35 New Part 4A inserted**  
 The following Part is inserted after Part 4:
- “Part 4A**
- “Environmental Protection Authority** 20
- “42B Establishment of Environmental Protection Authority**  
 This section establishes the Environmental Protection Authority.
- “42C Functions of Authority**
- “(1) The functions of the Environmental Protection Authority 25  
 are—
- “(a) to receive matters lodged under **section 141AA** and applications or notices of requirement lodged under **section 141AAG**:
  - “(b) to make recommendations to the Minister under **section 141AAB or 141AAH** in respect of a matter, application, or notice of requirement referred to in **paragraph (a)**: 30

- “(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 boards of inquiry appointed under section 146(2): 5
- “(e) to exercise or perform any functions, duties, or powers delegated to it by the Minister under **section 29(4)**:
- “(f) to exercise any other functions specified in this Act.
- “(2) For the purpose of performing its functions, the Authority has— 10
- “(a) full capacity to carry on or undertake any activity, do any act, or enter into any transaction; and
- “(b) for the purposes of **paragraph (a)**, full rights, powers, and privileges.”
- 36 Secretary for the Environment to exercise functions of Authority** 15
- (1) Until this section is repealed, the Secretary for the Environment has and may exercise all the powers, functions, and duties of the Environmental Protection Authority.
- (2) For the purposes of **subsection (1)**, every reference in the principal Act to the Environmental Protection Authority must be read as a reference to the Secretary for the Environment. 20
- (3) To avoid doubt, the Secretary for the Environment may delegate any function, duty, or power imposed upon him or her by the operation of **subsection (1)** to any employee of the Ministry for the Environment. 25
- (4) In this section, **Secretary for the Environment** means the person appointed in accordance with section 29 of the Environment Act 1986 as the Secretary for the Environment (being the administrative head of the Ministry for the Environment). 30
- 37 New sections 43AA to 43AAC inserted**
- The following sections are inserted after the heading to Part 5:
- “43AA Interpretation**
- In this Act, unless the context otherwise requires,—

- “**change** includes—
- “(a) a change proposed by a local authority to a policy statement or plan under clause 2 of Schedule 1; and
  - “(b) a change proposed by any person to a policy statement or plan by a request under clause 21 of Schedule 1 5
- “**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) 10
- “**operative**, in relation to a policy statement or plan, or a provision of a policy statement or plan, means that—
- “(a) the policy statement, plan, or provision has become operative in terms of clause 20 of Schedule 1; and
  - “(b) has not ceased to be operative 15
- “**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 but has not become operative in terms of clause 20 of Schedule 1 20
- “**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) 25
- “**regional plan** means—
- “(a) an operative regional plan approved by the Minister under Schedule 1, including all operative changes to the plan (whether arising from a review or otherwise); or
  - “(b) a regional coastal plan 30
- “**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) 35
- “**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.

**“43AAB Meaning of district rule and regional rule** 5

“(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 86A and clause 10(5)** of Schedule 1. 10

“(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 86A and clause 10(5)** of Schedule 1. 15

**“43AAC Meaning of proposed plan**

“(1) In this Act, unless the context otherwise requires, **proposed plan**—

“(a) means a proposed plan, variation to a proposed plan, or change to a plan proposed by a local authority that has been notified under clause 5 of Schedule 1 but has not become operative in terms of clause 20 of Schedule 1; and 20

“(b) includes a proposed plan or 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). 25

“(2) **Subsection (1)** is subject to **section 86A and clause 10(5)** of Schedule 1.”

**38 Additional powers to implement national environmental standards** 30

The heading to section 43A is omitted and the heading “**Contents of national environmental standards**” is substituted.

**39 Relationship between national environmental standards and rules or consents**

Section 43B(5) to (8) are repealed and the following subsections substituted:

- “(5) A land use consent or a subdivision consent granted before the date on which a national environmental standard is notified in the *Gazette* prevails over the standard. 5
- “(6) A water, coastal, or discharge permit granted before the date on which a national environmental standard is notified in the *Gazette* prevails over the standard until a review of the permit’s conditions under section 128(1)(ba) results in some or all of the standard prevailing over the permit. 10
- “(7) A resource consent prevails over a national environmental standard if the application giving rise to the consent was the subject of a decision on whether or not to publicly notify it under **section 94AA** before the date on which the standard is notified in the *Gazette*. However, the resource consent does not prevail if the standard expressly provides otherwise.” 15

**40 New sections 44 and 44A substituted**

Section 44 is repealed and the following sections are substituted: 20

**“44 Restriction on power to make national environmental standards**

- “(1) The Minister must follow the steps set out in **subsection (2)** before recommending the making of a national environmental standard to the Governor-General. **Subsection (3)** modifies this subsection. 25
- “(2) The steps are—
  - “(a) to notify the public and iwi authorities of—
    - “(i) the proposed subject matter of the standard; and 30
    - “(ii) the Minister’s reasons for considering that the standard is consistent with the purpose of the Act; and
  - “(b) to establish a process that—
    - “(i) the Minister considers gives the public and iwi authorities adequate time and opportunity to comment on the proposed subject matter of the standard; and 35

- “(ii) requires a report and recommendation to be made to the Minister on those comments and the proposed subject matter of the standard; and
- “(c) to publicly notify the report and recommendation.
- “(3) The Minister need not follow the steps if the Minister is recommending the making of an amendment— 5
- “(a) that has no more than a minor effect; or
- “(b) that corrects errors or makes similar technical alterations.
- “**44A Local authority recognition of national environmental standards** 10
- “(1) **Subsection (4)** applies if a local authority’s plan or proposed plan contains a rule that duplicates a provision in a national environmental standard as the provision appears on the date on which the standard comes into force. 15
- “(2) **Subsection (4)** also applies if a local authority’s plan or proposed plan contains a rule that conflicts with a provision in a national environmental standard as the provision appears on the date on which the standard comes into force.
- “(3) A rule conflicts with a provision if— 20
- “(a) both 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 25
- “(b) the rule is more lenient than the provision.
- “(4) The local authority must amend the plan or proposed plan without further formality to remove the duplication or conflict as soon as practicable after the date on which the standard comes into force. 30
- “(5) A local authority may amend a plan without further formality to include a reference to a national environmental standard after the date on which the standard comes into force.
- “(6) Every local authority and consent authority must observe national environmental standards. 35

“(7) 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.”

**41 Minister chooses process**

(1) Section 46A(2)(b)(i) is repealed and the following subparagraphs are substituted: 5

- “(i) national environmental standards; and
- “(ia) other national policy statements; and”.

(2) Section 46A(3) is repealed.

**42 Board of inquiry**

10

Section 47 is amended by adding the following subsection:

“(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.”

**43 New section 47A inserted**

15

The following section is inserted after section 47:

**“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: 20

- “(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): 25
- “(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)**.” 30

**44 Conduct of hearing**

(1) Section 50(1) is amended by omitting “42A” and substituting “42”.

- (2) Section 50(3) is repealed and the following subsection substituted:  
“(3) The Minister has the right to be heard at the hearing, despite anything in sections 39 to 42.”
- 45 Matters to be considered and board of inquiry’s report** 5  
Section 51(1) is amended by inserting the following paragraph after paragraph (c):  
“(ca) any additional material provided by the Minister under **section 47A(1)(b)**; and”.
- 46 New section 51A inserted** 10  
The following section is inserted after section 51:  
**“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). 15  
“(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 20  
“(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.” 25
- 47 Consideration of recommendations and approval of statement**  
(1) The heading to section 52 is amended by inserting “**or withdrawal**” after “**approval**”. 30  
(2) Section 52(1) is repealed and the following subsection substituted:  
“(1) The Minister must consider a report and any recommendations made to him or her by a board of inquiry under section 51 and then may— 35



- “(a) make any changes, or no changes, to the proposed national policy statement as he or she thinks fit; or
- “(b) withdraw all or part of the proposed national policy statement and give public notice of the withdrawal, including the reasons for the withdrawal.” 5

**48 Local authority recognition of national policy statements**

Section 55(2) and (2A) are repealed and the following subsections substituted:

- “(2) A local authority must amend a document, if a national policy statement directs so,— 10
  - “(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. 15
- “(2A) The local authority must—
  - “(a) make the amendments referred to in **subsection (2)** without further formality (without using the process set out in Schedule 1); and
  - “(b) give public notice of the amendments within 5 working days after making them. 20
- “(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 set out in Schedule 1. 25
- “(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 30
  - “(c) before the occurrence of an event specified in the national policy statement (if any).”

**49 Matters to be considered by regional council (policy statements)**

Section 61(3) is amended by adding “or the effects of trade competition”. 35

- 50 Matters to be considered by regional council**  
Section 66(3) is amended by adding “or the effects of trade competition”.
- 51 Matters to be considered by territorial authority**  
Section 74(3) is amended by adding “or the effects of trade competition”.
- 52 District rules**  
Section 76 is amended by inserting the following subsection after subsection (4):  
“(4A) However, a rule must not provide for the protection of any tree, or group of trees, in an urban environment unless the tree or group of trees is—  
“(a) specifically identified in a schedule to the plan; or  
“(b) located within an area in the district that—  
“(i) is a reserve (within the meaning of section 2(1) of the Reserves Act 1977); or  
“(ii) is subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.”
- 53 New sections 77A and 77B substituted**  
Sections 77A and 77B are repealed and the following sections substituted:  
“**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) make rules in its plan or proposed plan in accordance with **section 94AAD**; and

- “(d) 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 5
  - “(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. 10
- “(3) **Subsection (1)(b) and (c)** are subject to **section 77B**.
- “**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. 15
- “(2) The local authority must also make a rule in the plan or proposed plan specifying 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. 20
- “(4) The local authority must also make a rule in the plan or proposed plan specifying the matters over which it has restricted its discretion in relation to the activity.” 25
- 54 Sections 77C and 77D repealed**  
Sections 77C and 77D are repealed.
- 55 Section 78A repealed**  
Section 78A is repealed.
- 56 Review of policy statements and plans** 30  
Section 79(2) is repealed and the following subsection substituted:

“(2) A territorial authority must commence a full review of its district plan if the plan no longer assists the authority to carry out its functions in order to achieve the purpose of this Act.”

**57 New section 80 substituted**

Section 80 is repealed and the following section substituted: 5

**“80 Combined regional and district documents**

“(1) Local authorities may prepare, implement, and administer the combined regional and district documents as set out in **sub-sections (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: 10

“(a) a regional policy statement:

“(b) a regional plan, including a regional coastal plan:

“(c) a district plan. 15

“(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: 20

“(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: 25

“(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. 30

“(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: 35

“(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 5
  - “(ii) a combined district plan for their combined districts.
- “(7) Without limiting **subsections (1) to (6)**, 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. 10
- “(8) A combined document prepared under this section—
  - “(a) must be prepared in accordance with Schedule 1; and 15
  - “(b) when approved by a local authority is deemed, for the purposes of this Act, to be a plan separately prepared and approved by that authority for its region or district, as the case may be.
- “(9) **Subsection (8)(b)** applies whether or not the combined document is approved by any of the other local authorities concerned. 20
- “(10) Clause 30 of Schedule 7 of the Local Government Act 2002 applies 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.” 25

**58 Disputes**

Section 82(3) is repealed and the following subsections are substituted:

- “(3) If a dispute is referred to the Court about whether there is an inconsistency described in subsection (1)(a) or (b), 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 set out in Schedule 1. 30 35
- “(4) If a dispute is referred to the Court about whether a regional policy statement or a plan gives effect to a national policy

statement or New Zealand coastal policy statement, and the Court considers that the policy statement or plan does not give effect to the other policy statement, the Court must order the authority responsible for the policy statement or plan to amend it in accordance with **section 55**. 5

“(5) However, the Court need not make an order under **subsection (3) or (4)** if it considers that the inconsistency, or failure to give effect to the other policy statement, is of minor significance that does not affect the general intent and purpose of the policy statement, plan, or water conservation order concerned. 10

“(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)**.”

#### **59 New heading and sections 86A to 86C inserted**

The following heading and sections are inserted after section 86: 15

##### *“Legal effect of rules*

#### **“86A When rules in proposed plans and changes have legal effect**

“(1) A rule in a proposed plan or change does not have legal effect until— 20

“(a) a decision on submissions relating to the rule is made and publicly notified under **clause 10(4)** of Schedule 1; or

“(b) **section 86C** applies; or 25

“(c) the proposed plan or change becomes operative in accordance with clause 20 of Schedule 1, but only if,—

“(i) before publicly notifying the proposed plan or change under clause 5 of that schedule, the local authority concerned makes a resolution to this effect; and 30

“(ii) the public notification includes the resolution.

“(2) Despite **subsection (1)**, a rule in a proposed plan has legal effect—

“(a) from the date the proposed plan or change is publicly notified under clause 5 of Schedule 1, if the rule— 35

- “(i) expressly protects water, air, soil (for soil conservation), areas of significant indigenous vegetation, or areas of significant habitats of indigenous fauna, or historic heritage; or
  - “(ii) provides for an aquaculture management area: 5
  - “(b) from the date of the order of the Environment Court, if the local authority applies for the rule to be exempt from **subsection (1)**, and the Court makes the order:
  - “(c) from the day after the date on which the local authority publicly notifies that a resolution made under **subsection (1)(c)** is rescinded, but only if the public notice includes a statement of the rescision, the resolution to which it relates, and the date on which the rescision was made. 10
- “**86B Rule to which section 86A applies excluded from reference to rule in this Act** 15
- “(1) A reference in this Act, or in any regulations made under this Act, to a rule in a plan, a proposed plan, or a change does not include a reference to a rule in the plan, proposed plan, or change that has not taken legal effect in accordance with **section 86A**. 20
  - “(2) **Subsection (1)** applies subject to any express provision to the contrary in this Act.
- “**86C Certain rules in proposed plans to be operative** 25
- A rule in a proposed plan is to be treated as if it is operative, and any previous rule is inoperative, if the time for making submissions or lodging appeals on the rule has expired and—
- “(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 30
  - “(c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.”
- 60 New sections 87A to 87G**
- The following sections are inserted after section 87: 35

**“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 regulations, plan or proposed plan. 5
- “(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,— 10
- “(a) the consent authority must grant a resource consent; and
- “(b) the consent authority’s power to impose conditions on the resource consent is restricted to the matters over which it has reserved control; and
- “(c) the activity must comply with the requirements, conditions, and permissions, if any, specified in the regulations, plan, or proposed plan. 15
- “(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— 20
- “(a) the consent authority’s power to decline a consent, or grant a consent and to impose conditions on the consent, is restricted to the matters over which it has restricted its discretion; and 25
- “(b) the activity must comply with the requirements, conditions, and permissions, if any, specified in the 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— 30
- “(a) the consent authority may decline the consent or grant the consent with or without conditions; and
- “(b) the activity must comply with the requirements, conditions, and permissions, if any, specified in the regulations, plan, or proposed plan. 35
- “(5) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed



plan as a non-complying 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) the activity must comply with— 5

“(i) the requirements, conditions, and permissions, if any, specified in the regulations, plan, or proposed plan; and

“(ii) section 104D.

“(6) If an activity is described in this Act, regulations (including a national environmental standard), a plan, or a proposed plan as a prohibited activity,— 10

“(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. 15

“**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— 20

“(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 25

“(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. 30

“(3) **Subsection (2)** does not apply to prospecting, exploring, or mining activities set out in section 61(1A) of the Crown Minerals Act 1991. 35

“(4) An activity prohibited by section 105(2)(b) of the Historic Places Act 1993 must be treated as a prohibited activity.

*“Streamlining decision making on resource consents*

“**87C Request for application to go directly to Environment Court** 5

“(1) This section applies when an applicant wants an application determined by the Environment Court instead of by a consent authority.

“(2) The applicant must make the application under section 88(1) and (2) and include with it a request that the relevant consent authority allow the application to be determined by the Environment Court instead of by the consent authority. 10

“(3) 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. 15

“(4) If the consent authority does not determine under section 88(3) that the application is incomplete, it must give the applicant the authority’s decision on the request within 10 working days after receiving the request. 20

“**87D Consent authority’s decision and subsequent processing**

“(1) If the consent authority does not grant the applicant’s request under **section 87C**, the applicant may object to the consent authority under **section 357A(1)(e)**. 25

“(2) If the local authority grants the applicant’s request under **section 87C**, the application—

“(a) must have sections 88A to 95 applied to it with all necessary modifications; and

“(b) has sections 96 to 98 applied to it only if it was publicly notified (within the meaning of **section 93**) under **section 94AA** or served under **section 94AAB**; and 30

“(c) must have **subsections (3) to (5)** applied to it.

“(3) The consent authority must prepare a report on the application— 35

- “(a) as soon as is reasonably practicable after the authority complies with section 98 if the application has section 98 applied to it; or
- “(b) within 10 working days after granting the request if the application does not have section 98 applied to it. 5
- “(4) The consent authority must include in the report any conditions that it considers should be imposed if the application is granted.
- “(5) As soon as is reasonably practicable after the report is prepared, the consent authority must send a copy to— 10
  - “(a) the applicant; and
  - “(b) every person who made a submission on the application.
- “**87E Environment Court determines application**
- “(1) **Subsection (2)** applies to an applicant who—
  - “(a) receives a report sent under **section 87D(5)**; and 15
  - “(b) continues to want the application to be determined by the Environment Court instead of by a consent authority.
- “(2) The applicant must,—
  - “(a) within 10 working days after receiving the report, lodge 20 a notice of motion with the Environment Court; and
  - “(b) as soon as practicable after lodging the notice of motion, serve a copy of it on—
    - “(i) the consent authority that granted the applicant’s request under **section 87C**; and 25
    - “(ii) every person who made a submission to the consent authority on the application; and
  - “(c) tell the Registrar of the Environment Court when the copies have been served.
- “(3) A consent authority served under **subsection (2)(b)(i)** must send to the Environment Court— 30
  - “(a) the application to which the notice of motion relates; and
  - “(b) the authority’s report on the application; and
  - “(c) all the submissions that the authority received on the 35 application; and
  - “(d) all the information and reports that the authority received on the application.

- “(4) Section 291(3) and (4) apply to the notice of motion.
- “(5) The Environment Court must determine the application under Part 11.
- “(6) In determining the application, the Environment Court must have regard to the things to which the consent authority would have regard if it were determining the application. 5

“**87F Residual powers of consent authority**

The consent authority that would have determined the application had the Environment Court not done so under **section 87E** 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. 10

“**87G When consent authority must determine application**

- “(1) This section applies when—
  - “(a) an applicant makes a request under **section 87C(2)**; 15
  - and
  - “(b) either—
    - “(i) the consent authority does not grant the request; or
    - “(ii) the consent authority grants the request but the applicant does not lodge a notice of motion with the Environment Court under **section 87E(2)**; 20
  - and
  - “(c) the applicant continues to want the application determined. 25
- “(2) The application must be determined by the consent authority.”

**61 Description of type of activity to remain the same**

- (1) Section 88A(1)(a) is amended by inserting “or **section 141AA**” after “section 88”.
- (2) Section 88A(1)(b) is amended by omitting “under section 88, or for which the activity is treated under section 77C” and substituting “, or for which the activity is treated under **section 87B**”. 30

**62 Processing provisions from which periods described in section 88C are excluded**

- (1) Section 88B is amended by omitting “88C(2)” and substituting “88C(1AAB), (1AAD), (1AAF), (2)”.
- (2) Section 88B is amended by repealing paragraph (b) and substituting the following paragraphs:
  - “(b) section 101(2), which deals with the time limit for the commencement of a hearing if the application was notified or if notice was served; and
  - “(ba) section 101(2A), which deals with the time limit for the commencement of a hearing if the application was not notified or if notice was not served; and
  - “(bb) section 115(a), which deals with the time limit for notification of the decision on an application for resource consent if a hearing is held; and”.

**63 Description of excluded periods**

- (1) Section 88C is amended by inserting the following subsections before subsection (1):
  - “(1AA) **Subsection (1AAB)** applies when an applicant makes a request under **section 87C(2)**.
  - “(1AAB) The period that must be excluded from the provisions listed in section 88B is the period—
    - “(a) starting with the date on which the local authority receives the request; and
    - “(b) ending with the earlier of the following:
      - “(i) the date on which the 10 working days referred to in **section 87C(4)** end; and
      - “(ii) the date on which the local authority gives the applicant the authority’s decision on the request.
  - “(1AAC) **Subsection (1AAD)** applies when an applicant receives a report sent under **section 87D(5)**.
  - “(1AAD) The period that must be excluded from the provisions listed in section 88B is the period—
    - “(a) starting with the date on which the consent authority sends the report; and
    - “(b) ending with the earlier of the following:
      - “(i) the date on which the 10 working days referred to in **section 87E(2)(a)** end; and

- “(ii) the date on which the applicant lodges a notice of motion under **section 87E(2)(a)**.
- “(1AAE) **Subsection (1AAF)** 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. 5
- “(1AAF) The period that must be excluded from the provisions listed in 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— 10
- “(i) the date of the receipt by the authority of applications for any 1 or more of the other resource consents described in section 91(1)(a); or
- “(ii) the date of an Environment Court order revoking the authority’s determination.” 15
- (2) Section 88C(1) is amended by inserting the following paragraph after paragraph (a):
- “(ab) the request is the first request made by the authority to the applicant under that section; and”.
- (3) Section 88C(7)(a) is amended by omitting “section 92(2)(b)” 20 and substituting “**section 92AB(5)(b)**”.
- (4) Section 88C(8)(a) is amended by omitting “section 92(2)(b)” and substituting “**section 92AB(5)(b)**”.
- 64 New section 92 substituted**
- Section 92 is repealed and the following section substituted: 25
- “92 Further information may be requested**
- “(1) A consent authority that is not to hold a hearing may make a written request to an applicant for a resource consent to provide further information on the application.
- “(2) The request must contain the consent authority’s reasons for requesting the further information. 30
- “(3) The consent authority must make the request a reasonable time before it makes its decision to grant or refuse the application.
- “(4) The applicant must provide the information to the office of the consent authority no later than 10 working days before the authority makes its decision to grant or refuse the application. 35

“(5) **Subsection (4)** does not apply if the applicant refuses, under section 92A, to provide the information.”

**65 Responses to request**

Section 92A(3) to (6) are repealed and the following subsection substituted: 5

“(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 10

“(c) refuses to provide the information under subsection (1)(c).”

**66 New section 92AB inserted**

The following section is inserted after section 92A:

**“92AB Report may be required 15**

“(1) A consent authority that is not to hold a hearing may require a person described in **subsection (2)** to prepare a report on—

“(a) information provided by the applicant; or

“(b) information provided by a person who made a submission. 20

“(2) The persons are—

“(a) an officer of a local authority as defined in section 42(6):

“(b) a consultant commissioned for the purpose:

“(c) any other person employed for the purpose.

“(3) A report under **subsection (1)** does not need to repeat material in the assessment of environmental effects included in the application under section 88(2)(b). Instead, it may— 25

“(a) adopt the whole assessment; or

“(b) adopt a part of the assessment by giving a reference to the part adopted; or 30

“(c) adopt some of the material in the assessment by giving a reference to the material.

“(4) A consent authority that is not to hold a hearing may commission a consultant or any other person to prepare a report on any matter relating to an application, including— 35

- “(a) information provided by the applicant in the application; or
- “(b) information provided by the applicant under **section 92**.
- “(5) However, the consent authority may commission a report under **subsection (4)** only if—
- “(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.
- “(6) The consent authority must notify the applicant in writing that it wants to commission a report under **subsection (4)** and give its reasons for wanting to do so.
- “(7) The consent authority must decide whether or not to require or commission a report under this section a reasonable time before it makes its decision to grant or refuse the application.
- “(8) A report under this section must be available to the consent authority and the applicant no later than 10 working days before the authority makes its decision to grant or refuse the application.
- “(9) **Subsection (8)** does not apply to a report referred to in **subsection (4)** if the applicant refuses, under section 92B, to agree to the commissioning of the report.”

#### 67 Responses to notification

- (1) Section 92B(1) is amended by repealing “section 92(2)(b)” and substituting “**section 92AB(5)(b)**”.
- (2) Section 92B is amended by repealing subsections (2) to (5) and substituting the following subsection:
- “(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.”



- 68 New sections 93 to 94AAE substituted**  
 Sections 93 and 94 are repealed and the following heading and sections substituted:  
*“Public and other notification of applications*
- “93 Definitions for purposes of sections 93A to 95** 5  
 In **sections 93A** to 95,—  
**“affected person**, in relation to an application for a resource consent, means—  
 “(a) a person that, in the opinion of the consent authority concerned (formed in accordance with **section 93A**), 10  
 may be adversely affected by the activity to which the application relates; and  
 “(b) the holder of a customary rights order if, in the opinion of the consent authority concerned, the activity to which the application relates may adversely affect a recognised customary activity carried on, followed, or exercised under the order in accordance with section 17A(2) 15  
**“publicly notify**, in relation to an application for a resource consent, means—  
 “(a) giving public notice of the application in the prescribed form; and 20  
 “(b) serving notice of the application on every prescribed person.
- “93A Forming opinion on whether person adversely affected**  
**“(1) Subsections (2) to (4)** apply when a consent authority is forming an opinion (within the meaning of **section 93**) on whether a person is an affected person. 25  
**“(2)** A person must not be treated as being adversely affected—  
 “(a) unless the effects of the activity concerned on the person are more than minor; or 30  
 “(b) if, in relation to the adverse effects of the activity on the person, the plan concerned permits an activity with that effect; or  
 “(c) in relation to a controlled or restricted discretionary activity, if the adverse effects of the activity on the environment do not relate to a matter specified in the plan or proposed plan concerned as a matter for which— 35

- “(i) control is reserved for the activity; or  
“(ii) discretion is reserved for the activity; or  
“(d) it is unreasonable in the circumstances to seek the written approval of the person.
- “(3) The consent authority must have regard to every relevant statutory acknowledgement (within the meaning of an Act specified in Schedule 11) made in accordance with that Act. 5
- “**94 Notification of consent application at consent authority’s discretion**
- “(1) A consent authority may, in its discretion, decide whether or not to publicly notify an application for a resource consent. 10
- “(2) **Subsection (1)** is subject to—  
“(a) **sections 94AA, 94AAB, 94AAC, and 94AAE**; and  
“(b) any applicable rule made under **section 94AAD**.
- “**94AA Circumstances in which consent application required to be publicly notified** 15  
A consent authority must publicly notify an application for a resource consent if—  
“(a) it is satisfied that the adverse effects of the activity beyond the immediate environment will be more than 20  
minor; or  
“(b) in respect of a resource consent application to which section 92A or 92B applies, a request for further information or response to a notification—  
“(i) is not responded to by the deadline concerned; or 25  
“(ii) the person concerned refuses to provide the information or agree to the commissioning of a report;  
or  
“(c) the applicant requests that the application be notified.
- “**94AAB Circumstances in which consent application required to be notified in limited manner** 30
- “(1) A consent authority must notify an application in accordance with **subsection (2)** if it is satisfied that—  
“(a) the application will not be publicly notified under **section 94, 94AA, or 94AAE**; but 35

- “(b) 1 or more affected persons have not given written approval to the consent authority for the activity.
- “(2) A consent authority must notify the application by serving notice on the affected persons that have not given written approval to the authority for the activity. 5
- “(3) **Subsection (1)** is subject to any applicable rule made under **section 94AAD**.
- “**94AAC Circumstances in which consent application being publicly notified prohibited**
- “(1) A consent authority must not publicly notify an application for a resource consent if it is satisfied that the adverse effects of the activity on the environment will be minor. 10
- “(2) This section is subject to **sections 94AA(b) and (c) and 94AAE** and any applicable rule made under **section 94AAD**.
- “**94AAD Local authority may specify in plan or proposed plan types of activities for which consent applications to be publicly or otherwise notified** 15
- “(1) A local authority may make a rule in a plan or proposed plan specifying the activities in relation to which the consent authority will— 20
- “(a) publicly notify an application for a resource consent to carry out the activity:
- “(b) not publicly notify an application for a resource consent to carry out the activity:
- “(c) serve, in accordance with **section 94AAB(2)**, notification of an application for a resource consent to carry out the activity: 25
- “(d) not serve, in accordance with **section 94AAB(2)**, notification of an application for a resource consent to carry out the activity. 30
- “(2) However, if a rule is included in a plan that has the effect of not requiring the local authority to publicly notify an application for a resource consent, the local authority must still serve an application of this type on the holder of a customary rights order if, in the opinion of the local authority, the activity to which the application relates may adversely affect 35

- a recognised customary activity carried on, followed, or exercised under the order in accordance with section 17A(2).
- “(3) If a local authority acts under **subsection (1)**,—
- “(a) it must comply in every case with the rule; and
  - “(b) if there is any inconsistency between the rule and **section 94, 94AA, 94AAB, or 94AAC**, the rule prevails; and
  - “(c) if there is any inconsistency between the rule and **section 94AAE**, the section prevails.
- “**94AAE Special circumstances in which consent application publicly notified** 10  
Despite **sections 94AA to 94AAD**, if a consent authority considers that special circumstances exist in relation to an application for a resource consent, it may publicly notify the application.” 15
- 69 Forming opinion as to whether adverse effects are minor or more than minor**
- (1) Section 94A is amended by omitting “section 93” and substituting “**section 94AA**”.
  - (2) Section 94A is amended by repealing paragraph (c) and substituting the following paragraphs: 20
    - “(c) must disregard any effect on a person who has given written approval to the application; and
    - “(d) must disregard trade competition and the effects of trade competition.” 25
- 70 Sections 94B, 94C, and 94D repealed**  
Sections 94B, 94C, and 94D are repealed.
- 71 Time limit for notification**  
Section 95 is amended by inserting the following subsection as subsection (1): 30
- “(1) A consent authority must make a decision on whether or not to notify an application for a resource consent in accordance with **sections 94 to 94AAE** within 10 working days of the date the application is first lodged.”

**72 New section 96 substituted**

Section 96 is repealed and the following section substituted:

**“96 Making submissions**

- “(1) If an application for a resource consent is publicly notified (within the meaning of **section 93**) under **section 94AA**, a person described in **subsection (2)** may make a submission about it to the consent authority. 5
- “(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**. 10
- “(3) If notice of an application for a resource consent is served under **section 94AAB**, 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**. 15
- “(5) A submission must be in the prescribed form. 20
- “(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. 25
- “(7) A submission may state whether—
  - “(a) it supports the application; or
  - “(b) it opposes the application; or
  - “(c) it is neutral.”

**73 New section 100A inserted**

30

The following section is inserted after section 100:

**“100A Hearing by commissioner if requested by applicant or submitter**

- “(1) This section applies in relation to an application for a resource consent if— 35
  - “(a) the application is publicly notified (within the meaning of **section 93**) or served under **section 94AAB**; and

- “(b) in accordance with section 100, a hearing of the application is to be held.
- “(2) The following persons may request in writing that a local authority delegate, under section 34A, its functions, powers, and duties required to hear and decide the application in accordance with **subsection (3)**: 5
- “(a) the applicant, by including the request in his or her application; or
- “(b) a person who made a submission on the application, by including the request in his or her submission. 10
- “(3) If the local authority receives a request under **subsection (2)**, it must delegate the functions, powers, and duties referred to in that subsection to either—
- “(a) 1 hearings commissioner who is not a member of the local authority; or 15
- “(b) 1 or more persons permitted by section 34A(1), including at least 1 hearings commissioner who is not a member of the local authority.”
- 74 Joint hearings by 2 or more consent authorities**
- Section 102 is amended by adding the following subsections: 20
- “(7) **Subsection (8)** applies if—
- “(a) a regional council is responsible for a joint hearing under subsection (2); and
- “(b) the regional council has delegated its functions, powers, and duties, in relation to any matter included in the joint hearing, to 1 or more persons in accordance with **section 100A**. 25
- “(8) If this subsection applies, all matters included in the joint hearing must be heard and considered, and (if applicable) decided, by the persons referred to in **subsection (7)(b)**. 30
- “(9) **Subsection (10)** applies in relation to a matter if—
- “(a) a joint hearing under this section includes the matter; and
- “(b) a consent authority has delegated its functions, powers, and duties in relation to the matter to 1 or more persons in accordance with **section 100A**; and 35
- “(c) **subsection (8)** does not apply to the joint hearing that includes the matter.

“(10) If this subsection applies in relation to a matter, the persons who represent a consent authority in the joint hearing in relation to the matter must be the persons referred to in **subsection 9(b)**.”

**75 Combined hearings in respect of 2 or more applications 5**

Section 103 is amended by adding the following subsections:

“(3) **Subsection (4)** applies in relation to matters if—

“(a) the matters are to be heard and decided together under this section; and

“(b) the relevant local authority has delegated its functions, powers, and duties to hear and decide 1 or more of the matters to 1 or more persons in accordance with **section 100A**. 10

“(4) All of the matters must be heard and decided by the persons referred to in **subsection (3)(b)**.” 15

**76 New section 103A inserted**

The following section is inserted after section 103:

**“103A Time limits for hearings adjourned on completion**

“(1) **Subsection (2)** applies to a hearing for a resource consent if— 20

“(a) the hearing is adjourned; and

“(b) the adjournment takes effect after the applicant’s right of reply has been exercised.

“(2) The hearing must be concluded no later than 10 workings days after the right of reply has been exercised (whether exercised orally or in writing).” 25

**77 Consideration of applications**

(1) Section 104(1)(b)(i) is repealed and the following subparagraphs are substituted:

“(i) a national environmental standard: 30

“(ia) a national policy statement.”.

(2) Section 104(1) is amended by inserting the following paragraph after paragraph (b):

“(ba) whether it has adequate information to enable it to determine the application, including whether a request under 35

- section 92** or 92A resulted in further information or a report being available; and”.
- (3) Section 104(3)(a) and (b) are repealed and the following paragraph substituted:
- “(a) when considering an application, have regard to— 5
- “(i) trade competition or the effects of trade competition; or
- “(ii) any effect on a person who has given written approval to the application.”.
- 78 Determination of applications for controlled activities 10**
- Section 104A(b) is repealed and the following paragraph substituted:
- “(b) may impose conditions on the consent under section 108 for matters—
- “(i) in national environmental standards or other 15 regulations; or
- “(ii) over which it has reserved control in its plan or proposed plan.”
- 79 New section 104C substituted 20**
- Section 104C is repealed and the following section substituted: 20
- “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 to which it has restricted the exercise 25 of its discretion, as specified—
- “(a) in national environmental standards or other regulations; or
- “(b) in its plan or proposed plan.
- “(2) The consent authority may grant or refuse the application. 30
- “(3) However, if it grants the application, it may impose conditions under section 108 only for those matters to which it has restricted the exercise of its discretion, as specified—
- “(a) in national environmental standards or other regula- 35 tions; or
- “(b) in its plan or proposed plan.”



**80 Decisions on applications to be in writing, etc**

- (1) Section 113(1) is amended by inserting “publicly notified (within the meaning of **section 93**) under **section 94AA** or served under **section 94AAB**” after “resource consent”.
- (2) Section 113(1)(ab)(i) is repealed and the following subparagraphs substituted:
  - “(i) a national environmental standard:
  - “(ia) a national policy statement.”.
- (3) Section 113(1)(ae) is amended by omitting “of fact” and substituting “on the principal issues that were in contention”.
- (4) Section 113 is amended by adding the following subsections:
  - “(3) A decision prepared under subsection (1) may,—
    - “(a) instead of repeating material, cross-refer to all or a part of the assessment of environmental effects provided by the applicant concerned; or
    - “(b) adopt all or a part of the assessment, and cross-refer to the material accordingly.
  - “(4) Every decision on an application for a resource consent that is not notified under **sections 94 to 94AAE** must be in writing and state the reasons for the decision.”

**81 When resource consent commences**

- (1) Section 116(1) is repealed and the following subsections are substituted:
  - “(1) Every resource consent that has been granted commences—
    - “(a) on the date described in **subsection (1AA)**; or
    - “(b) if the Environment Court determines a date other than under **subsection (1AA)(b) or (c)**, on the date the court determines.
  - “(1AA) Every resource consent that has been granted commences,—
    - “(a) for a consent granted by a consent authority,—
      - “(i) on the date on which the time for lodging appeals against the grant of the consent expires with no appeals having been lodged; or
      - “(ii) on a later date that the authority states in the consent:

- “(b) for a consent granted by a consent authority against which appeals have been lodged,—
- “(i) on the date on which all appellants have withdrawn their appeals; or
- “(ii) on the date on which the Environment Court determines all the appeals; or 5
- “(iii) on a later date that the court states in the consent:
- “(c) for a consent granted by the Environment Court under **section 87E**,—
- “(i) on the date on which the court grants the consent; 10  
or
- “(ii) on a later date that the court states in the consent:
- “(d) for a consent dealt with in subsection (1A), (1AB), or (2), as provided in the subsection.”
- (2) Section 116(3) is repealed. 15

## 82 New section 117 substituted

Section 117 is repealed and the following section substituted:

- “**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. 20
- “(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. 25
- “(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 (as defined in **section 93**) in accordance with **section 95(1)**. 30
- “(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. 35

“(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.”

**83 Sections 118 to 119A repealed** 5  
Sections 118, 119, and 119A are repealed.

**84 Right to appeal**

(1) Section 120(1) is amended by omitting “, except a decision of the Minister of Conservation under section 119,”.

(2) Section 120(1) is amended by adding the following paragraph: 10  
“(c) in relation to a coastal permit for a restricted coastal activity, the Minister of Conservation.”

**85 Procedure for appeal**

Section 121(3) is repealed.

**86 Circumstances when consent conditions can be reviewed**

Section 128 is amended by adding the following subsection as: 15

“(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)**.”

**87 Public notification, submissions, and hearing, etc** 20

(1) Section 130(2) is repealed and the following subsection substituted:

“(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— 25

“(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.”

(2) Section 130(3) is amended by omitting “Sections 93 to 94C” and substituting “**Sections 93 to 94AAE**”. 30

(3) Section 130(5)(a) is amended by omitting “section 93(2) or section 94(1)” and substituting “**sections 93 to 94AAE**”.

- (4) Section 130(6) is amended by omitting “the hearing committee shall only hear from” and substituting “the only persons who may be heard in relation to the matter are”.

**88 Matters to be considered in review**

Section 131(1) is amended by omitting “or hearing committee set up under section 117 in respect of a permit for a restricted coastal activity”.

**89 Decisions on review of consent conditions**

- (1) Section 132(2) is amended by omitting “(other than a review initiated by the Minister of Conservation)”.
- (2) Section 132(3) is repealed.

**90 Consent authorities to grant certificates of compliance**

- (1) The heading to section 139 is amended by inserting “**and Environmental Protection Authority**” after “**authorities**”.
- (2) Section 139(1) is amended by inserting “a national environmental standard or” after “complies with”.
- (3) Section 139(2) is amended by inserting “a national environmental standard or” after “complies with”.
- (4) Section 139(6) is amended by inserting “the national environmental standard or” after “specified in”.
- (5) Section 139 is amended by adding the following subsections:
- “(8) Instead of making an application to the consent authority, a person may make an application to the Environmental Protection Authority for a certificate of compliance, but only if the proposal or activity concerned relates to a matter that is or is part of a proposal of national significance called in by the Minister under section 141B(1).
- “(9) For the purposes of **subsection (8)**, subsections (1) to (6) apply with any necessary modification, including all references to consent authority to be read as references to the Authority.”

**91 New section 140 substituted**

Section 140 is repealed and the following section substituted:

**“140 Meaning of applicant, local authority, and matter in sections 141 to 150AA**

In sections 141 to 150AA,—

“**applicant** means, as the case may be,—

- “(a) an applicant for a resource consent; or 5
- “(b) in relation to a request to a local authority for a change to a plan under Schedule 1, the person making the request; or
- “(c) in relation to a change to a plan proposed under Part 2 of Schedule 1, the person making the request; or 10
- “(d) in relation to a request to a local authority for the preparation of a regional plan under Schedule 1, the person making the request; or
- “(e) in relation to a regional plan proposed under Part 2 of Schedule 1, the person making the request; or 15
- “(f) a requiring authority; or
- “(g) a heritage protection authority; or
- “(h) a local authority in respect of—
  - “(i) a change to a plan under clause 2 of Schedule 1; or 20
  - “(ii) a variation to a proposed plan

“**local authority** means—

- “(a) a consent authority, for an application for a resource consent:
- “(b) a territorial authority, for— 25
  - “(i) a request for a change to be made to a district plan; or
  - “(ii) a change to a district plan; or
  - “(iii) a variation to a proposed district plan:
- “(c) a regional council, for— 30
  - “(i) a request for the preparation of a regional plan; or
  - “(ii) a regional plan proposed under Part 2 of Schedule 1; or
  - “(iii) a change to a regional plan; or 35
  - “(iv) a variation to a proposed regional plan:
- “(d) a territorial authority, for a notice of requirement

“**matter** means, as the case may be,—

- “(a) an application for a resource consent; or

- “(b) a request for a change to a district plan or a regional plan under clause 21(1) of Schedule 1; or
- “(c) a request for the preparation of a regional plan under clause 21(2) of Schedule 1; or
- “(d) a change to a plan; or 5
- “(e) a variation to a proposed plan ;or
- “(f) a regional plan proposed under Part 2 of Schedule 1; or
- “(g) a notice of requirement under any of sections 168, 168A, 189, and 189A.”

**92 Application of sections 141A to 150AA to coastal marine areas 10**

Section 141(1) is repealed and the following subsection substituted:

- “(1) If a matter relates wholly to a coastal marine area, sections 141A to 150AA apply to the matter with the following modifications: 15
  - “(a) references to the Minister must be read as references to the Minister of Conservation; and
  - “(b) references in sections 148(3)(e) and (f) and 149(3)(e) and (f) must be read as 1 paragraph saying ‘the Minister of Conservation’.” 20

**93 New section 141AA to 141AAI inserted**

The following sections are inserted after section 141 :

**“141AA Applicant may lodge certain matters with Environmental Protection Authority 25**

- “(1) An applicant may lodge a matter with the Authority if the applicant considers that the matter is, or is part of, a proposal of national significance.
- “(2) If the matter is an application for a resource consent, the applicant must still apply in accordance with section 88, except that— 30
  - “(a) every reference in that section to the local authority must be read as a reference to the Authority; and
  - “(b) the applicant must serve, on the local authority to which the application would otherwise have been made, notice of— 35
    - “(i) the application; and

- “(ii) its lodging with the Authority under this section; and
- “(c) the applicant has no right of objection under subsection (5) of the section if the Authority determines that the application is incomplete under subsection (3) of the section. 5
- “(3) If the matter is a notice of requirement for a designation, the applicant must still give notice in accordance with section 168, except that—
  - “(a) every reference in that section to a territorial authority must be read as a reference to the Authority; and 10
  - “(b) the applicant must serve, on the territorial authority to which the notice of requirement would otherwise have been made, notice of—
    - “(i) the requirement; and 15
    - “(ii) its lodging with the Authority under this section.
- “(4) If the matter is a notice of requirement for a heritage protection order, the applicant must still give notice in accordance with section 189, except that—
  - “(a) every reference in that section to a territorial authority must be read as a reference to the Authority; and 20
  - “(b) the applicant must serve, on the territorial authority to which the notice of requirement would otherwise have been made, notice of—
    - “(i) the requirement; and 25
    - “(ii) its lodging with the Authority under this section.
- “(5) If the matter is a request for a plan change under clause 21(1) or (2) of Schedule 1, the applicant must still make the request in accordance with clause 22 of that schedule, except that—
  - “(a) every reference in that clause to a local authority must be read as a reference to the Authority; and 30
  - “(b) the applicant must serve, on the local authority to which the request would otherwise have been made, notice of—
    - “(i) the request; and 35
    - “(ii) its lodging with the Authority under this section.
- “(6) An applicant lodging a matter under this section or a local authority may not request the Minister to intervene under section 141A(1) in relation to the same matter.

- “(7) This section does not apply to a matter that is—
- “(a) a change to a plan prepared by a local authority under clause 2 of Schedule 1; or
  - “(b) a variation to a plan prepared by a local authority under clause 16A of Schedule 1. 5
- “**141AAB Authority to make recommendation to Minister on matter**
- “(1) No later than 10 working days after receiving a matter lodged under **section 141AA**, the Authority must recommend to the Minister that he or she— 10
- “(a) call in the matter under section 141B(1); or
  - “(b) direct that the matter be referred to the local authority to which the matter would otherwise have been made.
- “(2) At the same time, the Authority may also recommend to the Minister that he or she also exercise 1 or more of the following powers: 15
- “(a) make a submission on the matter for the Crown:
  - “(b) 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: 20
  - “(d) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter. 25
- “(3) The Authority must serve a copy of the recommendation on the applicant and the local authority.
- “(4) **Subsection (1)** applies subject to **section 141AAC(3)**.
- “**141AAC Authority may request further information**
- “(1) In order to make a recommendation under **section 141AAB**, the Authority may,— 30
- “(a) by written notice, request an applicant to provide further information relating to the application:
  - “(b) require an employee, or commission any person, to prepare a report on any matter relating to the application (including in relation to information contained in the application or provided under **paragraph (a)**). 35



- “(2) The Authority may act under **subsection (1)(b)** only if the applicant—
- “(a) is notified before the report is commissioned; and
  - “(b) the applicant agrees, in writing, no later than 15 working days after being notified, to the commissioning of the report. 5
- “(3) An applicant who receives a request under **subsection (1)(a)** must, within 15 working days of the date of the request, take 1 of the following options:
- “(a) provide the information; or 10
  - “(b) tell the Authority in a written notice that the applicant agrees to provide the information; or
  - “(c) tell the Authority in a written notice that the applicant refuses to provide the information.
- “(4) If the Authority receives a written notice under **subsection (2)(b)**, the Authority must— 15
- “(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. 20
- “(5) If the Authority acts under this section, the time frame referred to in **section 141AAB(1)** (being the time within which the Authority must make its recommendation on the application to the Minister) begins—
- “(a) on the day after the day on which it receives the information or report; or 25
  - “(b) if the information under **subsection (1)(a)** is not received by the Authority by the deadline, the day after the deadline expires; or
  - “(c) if the applicant refuses to agree to the preparation of a report under **subsection (1)(b)**, the earlier of— 30
    - “(i) the day after the Authority receives written notification of the refusal; or
    - “(ii) sixteen working days after the applicant is notified of the request. 35
- “(6) The Authority must consider the matter for the purposes of making its recommendation even if the applicant—
- “(a) does not respond to a request under **subsection (1)(a)** or a notification under **subsection (2)**; or

- “(b) agrees to provide the information under **subsection (1)(a)** but does not do so or does not respond before the deadline; or
- “(c) refuses to agree to the preparation of a report under **subsection (1)(b)** or does not respond before the deadline. 5
- “141AAD Minister’s decision on Authority’s recommendation**
- “(1) After receiving a recommendation under **section 141AAB(1)**, the Minister must decide whether to—
- “(a) call in the matter by making a direction under section 141B(1); or 10
- “(b) direct that the matter be referred to the local authority to which the matter would otherwise have been made.
- “(2) At the same time, the Minister may exercise 1 or more of the following powers:
- “(a) make a submission on the matter for the Crown: 15
- “(b) 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: 20
- “(d) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.
- “(3) Before acting under **subsection (1) or (2)**, the Minister must have regard to the factors set out in section 141A(3). 25
- “(4) The Minister may act under **subsection (2)** whether or not the Authority made any recommendation to the Minister under **section 141AAB(2)**.
- “141AAE Authority to execute Minister’s decision**
- “(1) If the Minister makes a direction under **section 141AAD(1)(a) or 141AAI(1)(a)(i)**, the Authority must— 30
- “(a) provide the board or the Environment Court, as the case may be, with all matters and information received by the Authority; and
- “(b) serve a copy of the direction on the applicant and the local authority to which the matter would otherwise have been made; and 35

- “(c) give notice of the direction to—
  - “(i) each owner and occupier (other than an applicant) of any land to which the matter relates; and
  - “(ii) each owner or occupier of any land adjoining any land to which the matter relates. 5
- “(2) If the Minister makes a direction under **section 141AAD(1)(b) or 141AAI(1)(a)(ii)**, the Authority must—
  - “(a) serve a copy of the direction on the applicant; and
  - “(b) refer the matter to the local authority to which the matter would otherwise have been made, together with— 10
    - “(i) a copy of the direction; and
    - “(ii) all the information received by the Authority in relation to the matter.
- “**141AAF Determination of matter by local authority**
- “(1) A matter referred to a local authority under **section 141AAD(1)(b)** or an application or notice of requirement referred to a local authority under **section 141AAI** must be determined by the local authority in the following manner:
  - “(a) if the matter is an application for resource consent, the local authority must treat the application as if it— 20
    - “(i) had been made to the local authority under section 88(1); and
    - “(ii) had been lodged on the date that the local authority received it from the Authority under **section 141AAE**; and 25
    - “(iii) included an adequate assessment of environmental effects for the purposes of section 88(3):
  - “(b) if the matter is a notice of requirement for a designation, or alteration of a designation, the local authority must treat the notice as if it had been— 30
    - “(i) given to the local authority under section 168; and
    - “(ii) lodged on the date that the local authority received it from the Authority under **section 141AAE**: 35
  - “(c) if the matter is a notice of requirement for a heritage order, or alteration of a heritage order, the local authority must treat the notice as if it had been—

- “(i) given to the local authority under section 189;  
and
- “(ii) lodged on the date that the local authority received it from the Authority under **section 141AAE**: 5
- “(d) if the matter is a request for a regional plan or a change to a district plan or a regional plan, the local authority must treat the application as if it had been—
- “(i) made to the local authority under clause 21 of Schedule 1; and 10
- “(ii) lodged on the date that the local authority received it from the Authority under **section 141AAE**:
- “(e) if the matter is an application for a change or cancellation of the conditions of a resource consent, the local authority must treat the application as if it had been— 15
- “(i) made to the local authority under section 127; and
- “(ii) lodged on the date that the local authority received it from the Authority under **section 141AAE**. 20
- “(2) **Subsection (1)(b)** is subject to **subsection (4)**.
- “(3) **Subsection (1)(c)** is subject to **subsection (5)**.
- “(4) If the notice of requirement relates to a public work located in the territorial authority’s own district and for which it has financial responsibility, the territorial authority must give notice under section 168A(1), and the rest of that section applies accordingly with any necessary modifications. 25
- “(5) If the notice of requirement relates to a heritage order located in the territorial authority’s own district, the territorial authority must give notice under section 189A(1), and the rest of that section applies accordingly with any necessary modifications. 30
- “141AAG Applicant may lodge certain applications and notices of requirement with Authority if related to proposal of national significance 35**
- “(1) An applicant may lodge any of the following with the Authority if the application or notice relates to a proposal of national

significance in relation to which the Minister has called in a matter under section 141B(1):

“(a) an application for a resource consent:

“(b) an application for a change or cancellation of the conditions of a resource consent: 5

“(c) a notice of requirement for an alteration to a designation:

“(d) a notice of requirement for an alteration to a heritage order.

“(2) The application or notice or requirement may be lodged— 10

“(a) before the board of inquiry concerned or the Environment Court makes a decision on the matter that was called in; or

“(b) after the board of inquiry or the Environment Court has made its decision, but only if the matter concerned was granted or confirmed. 15

“**141AAH Authority to make recommendation to Minister**

“(1) The Authority must make a recommendation to the Minister in respect of an application or notice of requirement lodged under **section 141AAG**. 20

“(2) For the purposes of **subsection (1)**, **section 141AAB** applies as if the application or notice of requirement were a matter lodged under **section 141AA**, and that section, **sections 141AAB and 141AAC** apply accordingly with any necessary modification. 25

“(3) If the Authority makes a recommendation under **section 141AAB(1)(a)** (as applied by **subsection (2)**), the Authority must also recommend to the Minister whether the application or notice of requirement should be notified (using the criteria under **sections 94 to 94AAE**). 30

“**141AAI Minister’s decision on Authority’s recommendation**

“(1) After receiving a recommendation under **section 141AAG(1)**, the Minister must decide—

“(a) whether to—

“(i) call in the application or notice of requirement by making a direction under section 141B(1); or 35

- “(ii) direct that the application or notice of requirement be referred to the local authority to which the application or notice of requirement would otherwise have been made; and
- “(b) if the Minister makes a direction to call in the application or notice of requirement, whether the application or notice of requirement should be notified (using the criteria under **sections 93 to 93AAE**). 5
- “(2) At the same time, the Minister may exercise 1 or more of the following powers: 10
- “(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 matter: 15
- “(d) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.
- “(3) Before acting under **subsection (1) or (2)**, the Minister must have regard to the factors set out in section 141A(3). 20
- “(4) The Minister may act under **subsection (2)** whether or not the Authority made any recommendation to the Minister under **section 141AAB(2)** (as applied by **section 141AAH(2)**).
- “(5) If the Minister decides that the application or notice of requirement is to be publicly notified, he or she must give public notice under section 144. 25
- “(6) If the Minister decides that the application or notice of requirement is not to be publicly notified, he or she must serve notice in accordance with **section 94AAB**. 30
- “(7) Notice under **subsection (6)** must include the information specified in section 144(2)(a), (b), (c), (e), and (f)
- “(8) For a notice given under **subsection (6)**, the closing date for serving submissions on the Minister is 20 working days after the date the notice is given. 35
- “(9) Any person who receives notice given under **subsection (6)** may make a submission to the Minister.

- “(10) **Sections 96(5) to (7)** and 98 apply, with all necessary modifications, to submissions made under **subsection (8)** as if—
- “(a) every reference to a consent authority were a reference to the Minister; and
  - “(b) the reference in **section 96(6)(a)** to section 97 were a reference to **subsection (8)** of this section.” 5

**94 Minister’s power to intervene**

- (1) The heading to section 141A is amended by adding “**(other than in response to an application under section 141AA)**”. 10
- (2) Section 141A(3)(b) is amended by omitting “authorities” and substituting “authority”. 10
- (3) Section 141A(4)(d) is amended by omitting “consent” and substituting “local”. 10
- (4) Section 141A(4)(e) is repealed and the following paragraph substituted: 15
  - “(e) 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 matter:”.
- (5) Section 141A is amended by adding the following subsection: 20
  - “(5) A local authority may not make a request under subsection (1), whether acting as an applicant or a local authority, in respect of either of the following matters unless it has complied with clauses 2, 3 and, if relevant, clause 4 of Schedule 1 in relation to the matter: 20
    - “(a) a change to a plan prepared by the local authority under clause 2 of Schedule 1: 25
    - “(b) a variation to a plan prepared by the local authority under clause 16A of Schedule 1.” 25

**95 Minister’s power to call in matters that are or are part of proposals of national significance** 30

- (1) Section 141B(2) is amended by adding “; or” and also by adding the following paragraph: 30
  - “(i) relates to a network utility operation that extends, or is proposed to extend, to more than 1 region in New Zealand.” 35
- (2) Section 141B is amended by adding the following subsection: 35

- “(3) Where a direction under subsection (1) relates to a matter that is a change or variation, a local authority—
- “(a) may withdraw the change at any time before a notice of a hearing is given under section 101 (as applied by section 147(2)); but 5
- “(b) may not initiate a variation until after the board has made a decision under section 149.”
- 96 Local authority’s obligations**
- (1) Section 143(a)(ii) is amended by inserting “or Authority, as the case may be,” after “local authority”. 10
- (2) Section 143 is amended by adding the following subsection as subsection (2):
- “(2) If the direction relates to a matter that is a change to a plan or a variation to a proposed plan, the local authority concerned must also comply with clauses 5(4) to 5(6) of Schedule 1.” 15
- 97 Minister to notify direction**
- Section 144 is amended by adding the following subsection:
- “(3) This section does not apply to a direction relating to a matter under **section 146B** (being a request for a regional plan or a request for a change to a regional plan or a district plan).” 20
- 98 Minister to receive submissions**
- (1) Section 145(1) is amended by omitting “to which a direction under section 141C relates” and substituting “for which public notice under section 144 has been given”.
- (2) Section 145(2) is repealed and the following subsection substituted: 25
- “(2) **Sections 96(5) to (7)** and 98 apply, with all necessary modifications, to submissions made under subsection (1) as if—
- “(a) every reference to a consent authority were a reference to the Minister; and 30
- “(b) the reference in **section 96(6)(a)** to section 97 were a reference to subsection (4) of this section.”



**99 Minister to appoint board of inquiry**

(1) Section 146 (2) and (3) are repealed the following subsections substituted:

“(2) As soon as practicable after public notice of the direction is given under section 144(1), the Minister must appoint a board of inquiry to consider the matter concerned. 5

“(3) The Minister must appoint—

“(a) at least 3, but not more than 5, members; and

“(b) 1 member as the chairperson, who must be a current, former, or retired Environment Judge.” 10

(2) Section 146(4) and (5) are repealed.

(3) Section 146 is amended by adding the following subsection:

“(6) 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.” 15

**100 New sections 146A to 146D inserted**

The following sections are inserted after section 146:

**“146A How members appointed**

“(1) The Minister must comply with this section when appointing members under section 146. 20

“(2) The Minister must request nominations from the relevant local authority for members of the board.

“(3) However, the Minister may appoint a person as a member of the board whether or not he or she receives a nomination for the person under **subsection (2)**. 25

“(4) In appointing members, the Minister must consider the need for the board to have available to it, from its members, knowledge, skill, and experience relating to—

“(a) this Act; and

“(b) the matter or type of matter to come before the board; 30 and

“(c) tikanga Māori; and

“(d) the local community.

**“146B Conduct of inquiry relating to requests for regional plan or requests for changes 35**

“(1) This section applies to a board of inquiry if—

- “(a) the Minister makes a direction under section 141B(1)(a); and
- “(b) the matter is a request for a regional plan or a request for a change to a regional plan or a district plan made under **section 141AA** or clause 21 of Schedule 1; and 5
- “(c) if the request was made to a local authority under clause 21 of Schedule 1, the local authority has not yet made a decision under clause 25 of that schedule in relation to the matter.
- “(2) The board has all the powers of a local authority under clauses 23 to 25 of Schedule 1 except that the Board— 10
- “(a) may only—
- “(i) accept the request entirely under clause 25(2)(b) of the schedule; or
- “(ii) reject the request entirely under clause 25(4) of 15 the schedule; and
- “(b) as well as notifying the applicant under clause 25(5), the board must serve notice of its decision on the local authority.
- “(3) If the board— 20
- “(a) accepts the request, **section 146C** applies to the request:
- “(b) rejects the request, the applicant may appeal to the High Court on a question of law only.
- “(4) Section 149A(2) applies to any appeal made under **subsection (3)(b)**. 25
- “146C Process after board accepts request under section 146B**
- “(1) The local authority that would otherwise have processed and decided the matter must prepare the proposed plan or change to the plan in consultation with the applicant as if clause 26(a) 30 of Schedule 1 applied.
- “(2) No later than 4 months after the local authority is served under **section 146B(2)(b)** with notice of the board’s decision, it must serve a copy of the proposed plan or change on the board.
- “(3) On receiving the copy, the board must give public notice of 35 the proposed plan or change that states—
- “(a) the Minister’s reasons for calling the matter in; and

- “(b) where the proposed plan or change, accompanying information, and any other information may be viewed; and
- “(c) that submissions on the proposed plan or change may be made by any person to the board; and 5
- “(d) the closing date for receiving submissions; and
- “(e) the address for service of the board and the applicant.
- “(4) Any person may make a submission on the proposed plan or change to which public notice is given under **subsection (3)**.
- “(5) For the purposes of receiving submissions, sections 145(2) and 145(4) apply to the board as if every reference to the Minister were a reference to the board. 10

“**146D Manner in which board to consider proposed plan or change generated from request under section 146B**

Where a board of inquiry gives public notice under **section 146C(3)** of a proposed plan or change, the board must conduct a hearing in accordance with section 147 and, for this purpose,— 15

- “(a) in relation to a proposed regional plan, must apply section 147 as if it were considering a matter that was a change to a regional plan prepared by a regional council under clause 2 of Schedule 1: 20
- “(b) in relation to a change to a territorial plan, must apply section 147 as if it were considering a matter that was a change to a district plan prepared by a territorial authority under clause 2 of Schedule 1. 25
- “(c) all references to the applicant must be read as references to the person who made the request.”

**101 Conduct of inquiry**

- (1) Section 147(4) is repealed and the following subsections substituted: 30
- “(4) However,—
- “(a) every inquiry must be held in public at a place near to the area to which the matter relates; and
- “(b) if the matter is a change to a district plan prepared by a territorial authority under clause 2 of Schedule 1 or a variation to a proposed district plan, the board must 35

- also give notice under section 101(3) to any requiring authority that made a requirement under clause 4 of that schedule in respect of the change or variation.
- “(4A) A board of inquiry considering any matter must—
- “(a) consider the information provided to it by the Minister under subsection (1); and
  - “(b) have regard to the Minister’s reasons for calling in the matter under section 141B as stated in the direction concerned.”
- (2) Section 147 is amended by repealing subsection (6) and substituting the following subsection: 10
- “(6) A board of inquiry considering a matter that is a proposed regional plan or a change to a regional plan (including a request for a plan or change that has been accepted or adopted under Schedule 1)— 15
- “(a) has the same powers as a local authority under Part 1 of that schedule, except that—
    - “(i) clauses 5 to 7, 8B, 8D, 11, 14 to 19, and 20A do not apply; and
    - “(ii) the board may permit cross-examination; and 20
    - “(iii) the board must keep a full record of its proceedings; and
  - “(b) must apply sections 66 to 70B as if it were a regional council; and
  - “(c) has the powers of a consent authority under sections 92 to 92B with all necessary modifications, including references to consent authority in those sections read as references to the board of inquiry.” 25
- (3) Section 147(7) is repealed and the following subsection substituted: 30
- “(7) A board of inquiry considering a matter that is a change to a district plan or a variation to a proposed district plan (including a request for a plan or change that has been accepted or adopted under Schedule 1)—
- “(a) has the same powers as a local authority under Part 1 of that schedule, except that— 35
    - “(i) clauses 5 to 7, 8B, 8D, 11, 14 to 19, and 20A do not apply; and
    - “(ii) the board may permit cross-examination; and

- “(iii) the board must keep a full record of its proceedings; and
- “(b) must apply sections 74 to 77D as if it were a territorial authority; and
- “(c) has the powers of a consent authority under sections 92 to 92B with all necessary modifications, including references to consent authority in those sections read as references to the board of inquiry.” 5
- 102 Board to produce draft report**
- Section 148(4) is repealed and the following subsections are substituted: 10
- “(4) The board must invite the persons to whom it sends the draft report to send to the board any comments on minor or technical aspects of the report within 20 working days of the date of the invitation. 15
- “(5) To avoid doubt, comments on minor or technical aspects of the report—
- “(a) include comments on minor errors in the report; and
- “(b) may include comments on the wording of conditions specified in the report; but 20
- “(c) does not include comments on the board’s decision or its reasons for the decision.”
- 103 Board to produce final report**
- (1) Section 149(1) is amended by omitting “the board” and substituting “but no later than 9 months after public notice of the direction that referred the matter to the board is given under section 144(1), a board”. 25
- (2) Section 149(1)(a) is repealed and the following paragraph substituted:
- “(a) consider any comments received in accordance with **section 148(4)**; and”. 30
- (3) Section 149 is amended by inserting the following subsections after subsection (1):
- “(1A) However, the board may apply to the Minister to extend the period by which it must report. 35

- “(1B) The Minister may, in his or her absolute discretion, grant an extension or extensions of time to the board, but in any event may not grant an extension for more than 18 months from the date referred to in subsection (1).”
- (4) Section 149(5) is repealed and the following subsections substituted: 5
- “(5) **Subsection (6)** applies to a local authority if the board decides that the local authority’s plan must be changed.
- “(6) As soon as practicable after receiving notice of the board’s decision, the local authority must— 10
- “(a) amend the plan under clause 16(1) of Schedule 1, and that clause applies accordingly as if the decision were a direction of the Environment Court made under section 293; and
- “(b) if the decision is in respect of a change or variation to a district plan or regional plan (other than a regional coastal plan), the local authority must— 15
- “(i) approve the change under clause 17 of Schedule 1; and
- “(ii) make the change operative by giving public notice in accordance with clause 20 of that schedule; and 20
- “(c) if the decision is in respect of a change or variation to a regional coastal plan, the regional council must—
- “(i) adopt the change or variation under clause 18(1) of Schedule 1; and 25
- “(ii) send the plan to the Minister of Conservation for his or her approval in accordance with clause 19 of Schedule 1; and
- “(d) 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 that schedule. 30
- “(7) For the purposes of **subsection (6)(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. 35
- “(8) Nothing in section 37(1) applies to the time periods or the requirements specified in this section that apply to a board.”

**104 Appeals on questions of law**

- (1) Section 149A(2) is amended by omitting “308” and substituting “307”.
- (2) Section 149A is amended by adding the following subsections:
- “(3) No appeal may be made to the Court of Appeal from a determination of the High Court under subsection (1). 5
- “(4) However, a party may apply for leave of the Supreme Court to bring an appeal to that Court against a determination under subsection (1) and, for this purpose, sections 12 to 15 of the Supreme Court Act 2003 apply with any necessary modifications. 10
- “(5) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 14 of that Act) but considers that a further appeal from the determination is justified, the Court may remit the proposed appeal to the Court of Appeal. 15
- “(6) No appeal may be made from any appeal determined by the Court of Appeal in accordance with **subsection (5)**.
- “(7) Despite any enactment to the contrary,—
  - “(a) an application for leave for the purposes of **subsection (4)** must be filed no later than 10 working days after the determination of the High Court; and 20
  - “(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.” 25

**105 Costs of process**

- (1) Section 149B(3) is amended by inserting “(or the Authority exercising any powers delegated by the Minister)” after “by the Minister”. 30
- (2) Section 149B is amended by inserting the following subsection after subsection (3):
  - “(3A) The Minister may recover from an applicant the actual and reasonable costs incurred by the Authority in exercising its powers under **sections 141AA to 141AAH**.” 35

- (3) Section 149B(4) is amended by adding “(including the costs in respect of secretarial and support services provided to the board by the Authority).”

**106 Reference to Environment Court**

Section 150AA(5) and (6) are repealed and the following subsections substituted: 5

- “(5) The Minister must, without delay, provide the Court with—
- “(a) all matters received by the Minister; and
  - “(b) all submissions on the matters received by the Minister; and 10
  - “(c) all other information received by the Minister and relevant to the matter.
- “(6) The Court must—
- “(a) consider the information provided to it by the Minister under **subsection (5)**; and 15
  - “(b) have regard to the Minister’s reasons for calling in the matter under section 141B as stated in the direction concerned; and
  - “(c) have regard to the things to which a local authority would have regard if it were deciding the matter.” 20

**107 Publication, etc, of Order in Council**

Section 154(b)(ii) is repealed.

**108 Notice of requirement by local authority**

- (1) Section 168A(1) is repealed and the following subsections are substituted: 25
- “(1) **Subsections (1A) and (1B)** apply if a territorial authority proposes to issue notice of a requirement for a designation—
- “(a) for a public work within its district and for which it has financial responsibility; 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. 30
- “(1A) The territorial authority must decide whether or not the requirement should be notified (using the criteria under **sections 94 to 94AAE**). 35



- “(1B) Section 168, with all necessary modifications, applies to the notice.”
- (2) Section 168A(2) is amended by omitting “Sections, 96” and substituting “**Sections 87C to 87G, 96**”.
- 109 Further information, public notification, submissions, and hearing** 5
- (1) Section 169(1) is amended by inserting “**87C to 87G,**” after “sections”.
- (2) Section 169(2) is repealed and the following subsection substituted: 10
- “(2) The territorial authority must decide whether or not the requirement should be notified (using the criteria under **sections 94 to 94AAE**).”
- 110 Recommendation by territorial authority**
- (1) The heading to section 171 is amended by omitting “**Recommendation by**” and substituting “**Decision of**”. 15
- (2) Section 171 is amended by inserting the following subsection before subsection (1):
- “(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.” 20
- (3) Section 171(1)(d) is amended by omitting “recommendation” and substituting “decision”.
- (4) Section 171(2) is amended by omitting “recommend to the requiring authority that it” and substituting “decide to”. 25
- (5) Section 171(2)(d) is amended by omitting “withdraw” and substituting “cancel”.
- (6) Section 171(3) is amended by omitting “recommendation” and substituting “decision”.
- 111 Section 172 repealed** 30
- Section 172 is repealed.

**112 Notification of decision on designation**

- (1) Section 173(1) is amended by omitting “a decision is made by a requiring authority under section 172” and substituting “it makes a decision under section 171”.
- (2) Section 173(1) is amended by inserting the following paragraph before paragraph (a): 5  
“(aa) the requiring authority that gave notice of the requirement; and”.

**113 Appeals**

- (1) Section 174(1) is amended by omitting “requiring authority under section 172” and substituting “territorial authority under section 171”. 10
- (2) Section 174(1) is amended by repealing paragraph (a) and substituting the following paragraph: 15  
“(a) the requiring authority that gave notice of the requirement; and”.
- (3) Section 174(2)(c) is amended by omitting “requiring authority” and substituting “territorial authority”.

**114 Designation to be provided for in district plan**

- (1) Section 175(1)(a) is amended by omitting “requiring authority under section 172 within the time permitted by that section” and substituting “territorial authority under section 171, or a board of inquiry under section 149A, within the time permitted by section 174(2) or 300(1)”. 20
- (2) Section 175(1)(c) is amended by inserting “or the High Court (as the case may be)” after “Environment Court”. 25

**115 Effect of designation**

- (1) Section 176(1)(a) is amended by omitting “section 9(1)” and substituting “**section 9(2)**”. 30
- (2) Section 176(1)(b)(i) is amended by omitting “described in section 9(4)”.

**116 Outline plan**

- (1) Section 176A(4) is amended by omitting “request” and substituting “require”.

- (2) Section 176A(5) is repealed and the following subsection substituted:
- “(5) The requiring authority may, within 15 working days after being notified of the territorial authority’s decision under subsection (4), appeal against the decision to the Environment Court.” 5
- (3) Section 176A(6) is amended by omitting “requested” and substituting “required”.
- 117 Land subject to existing designation or heritage order**  
 Section 177(1) is amended by omitting “sections 9(3)” and substituting “**sections 9(1)**”. 10
- 118 Notice of requirement by territorial authority**  
 Section 189A(1) and (2) are repealed and the following subsections substituted:
- “(1) The territorial authority must decide whether or not the requirement should be notified (using the criteria under **sections 94 to 94AAE**). 15
- “(2) Section 189, with all necessary modifications, applies to the notice of requirement.
- “(3) If the requirement is publicly notified, any person make a submission about it to the consent authority. 20
- “(4) If the requirement is served under **section 94AAB**, a person served may make a submission about it to the consent authority.
- “(5) A submission must be in the prescribed form. 25
- “(6) A submission must be served—
- “(a) on the consent authority within the time allowed by section 97, which applies with all necessary modifications; and
- “(b) on the territorial authority as soon as is reasonably practicable after service on the consent authority. 30
- “(7) A submission may state whether—
- “(a) it supports the requirement; or
- “(b) it opposes the requirement; or
- “(c) it is neutral. 35

- “(8) Sections 99 to 103 apply to the requirement with all necessary modifications as if—
- “(a) every reference in those sections to a resource consent were a reference to the requirement; and
  - “(b) every reference in those sections to an applicant were a reference to the territorial authority; and
  - “(c) every reference in those sections to an application for a resource consent were a reference to the public notification.”

**119 Further information, public notification, submissions, and hearing** 10

Section 190(2) is repealed and the following subsection substituted:

- “(2) The territorial authority must decide whether or not the requirement should be notified (using the criteria under **sections 94 to 94AAE**).” 15

**120 Recommendation by territorial authority**

- (1) The heading to section 191 is amended by omitting “**Recommendation**” and substituting “**Decision**”.
- (2) Section 191(2) is amended by omitting “recommend” and substituting “decide”. 20
- (3) Section 191(2)(b) is amended by omitting “withdrawn” and substituting “cancelled”.
- (4) Section 191(3) is amended by omitting “In recommending the confirmation of a requirement under subsection (2)(a), the territorial authority may recommend the imposition of” and substituting “If the territorial authority confirms a requirement under subsection (2)(a), it may impose”. 25
- (5) Section 191(4) is amended by omitting “recommendation” and substituting “decision”. 30

**121 Land subject to existing heritage order or designation**

Section 193A(1) is amended by omitting “sections 9(3)” and substituting “**sections 9(1)**”.

**122 Interim effect of requirement**

- (1) Section 194(2) is amended by omitting “the heritage protection authority gives notice of the requirement” and substitute “notice is given under **section 141AA** or”.
- (2) Section 194(4) is amended by omitting “the heritage protection authority gives notice of the requirement” and substitute “notice is given under **section 141AA** or”. 5

**123 Special tribunal**

- Section 203 is amended by adding the following subsection:
- “(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.” 10

**124 Submissions to special tribunal**

- (1) Section 205(2) is amended by omitting “96(2) and (4)” and substituting “**96(5) and (6)**”. 15
- (2) Section 205(2)(b) is amended by adding “; and” and also by adding the following subsection:  
 “(c) the reference in **section 96(6)(a)** to section 97 were a reference to subsection (7) of this section.”

**125 Conduct of hearing** 20

Section 206(2) is repealed.

**126 Territorial authority to issue a consent notice**

Section 221(2) is repealed and the following subsection substituted:

- “(2) Every consent notice must be signed by a person authorised by the territorial authority to sign consent notices.” 25

**127 Restrictions upon deposit of survey plan**

- (1) Section 224 is amended by omitting “under the Land Transfer Act 1952 or with the Registrar of Deeds for the purposes of section 11(1)(a)” and substituting “for the purposes of **section 11(1)(a)(i) or (iii)**”. 30
- (2) Section 224(f) is amended by omitting “authenticated by the territorial authority under section 252 of the Local Govern-

ment Act 1974 is lodged with the District Land Registrar or Registrar of Deeds, as the case may require” and substituting “signed by a person authorised by the territorial authority to sign such certificates is lodged with the Registrar-General of Land”. 5

**128 Consent authority approval of a plan of survey of a reclamation**

(1) Section 245(5) is repealed and the following subsection substituted:

“(5) A regional council (as the consent authority) approves a plan of survey by— 10

“(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— 15

“(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).” 20

(2) Section 245(6) is amended by omitting “subsections (5)(a)(ii) or (5)(b)(ii)” and substituting “**subsection (5)(b)**”.

**129 Restrictions on deposit of plan of survey for reclamation 25**

Section 246(2)(b) is amended by omitting “section 245(5)(a)(ii) or (5)(b)(ii)” and substituting “**section 245(5)(b)**”.

**130 Appointment of Environment Judges and alternate Environment Judges 30**

Section 250(3)(a) is amended by omitting “8” and substituting “10”.

**131 Representation at proceedings**

- (1) Section 274(1) and (2) are repealed and the following subsections substituted:
- “(1) The following persons may be a party to any proceedings before the Environment Court: 5
- “(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 308D** 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**: 10 15
- “(e) a person who made a submission to which the following apply:
- “(i) it was made about the subject matter of the proceedings; and 20
- “(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 25
- “(ii) **section 308B(2)** or **clause 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 **clause 6(4) or 29(1B)** of Schedule 1 was relevant to it. 30
- “(2) A person described in **subsection (1)** may become a party to the proceedings by giving notice to the Environment Court and to all other parties within 15 working days after— 35
- “(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 notice of motion is lodged, if the proceedings are commenced under **section 87E** or 291.”
  - (2) Section 274(3)(b) is amended by omitting “relief sought” and substituting “proceedings”.
  - (3) Section 274(4B) is amended by omitting “subsection (1)(e), evidence may only be called” and substituting “**subsection (1)(e) or (f)**, evidence may be called only”. 5
  - (4) Section 274(6) is amended by omitting “public generally” and substituting “interest that the general public has”.
- 132 New section 280A inserted** 10
- The following section is inserted after section 280:
- “280A Application to extend scope of appeal**
- “(1) A person may apply to the Environment Court to extend the scope of an appeal under clause 14 of Schedule 1 to the merits of 1 or more of the provisions or matters of the local authority’s decision on the proposed policy statement or plan concerned in respect of the provisions or matters referred to in the applicant’s submission. 15
  - “(2) An application for leave must be made—
    - “(a) no later than 30 working days after the applicant is notified under **clause 11(1) of that schedule** of the local authority’s decision; and 20
    - “(b) by notice of motion in accordance with section 291.
  - “(3) The Environment Court may grant an application if the Court is satisfied that the local authority’s decision— 25
    - “(a) has a significant impact on existing property rights; or
    - “(b) fails to give effect to Part 2 of this Act; or
    - “(c) is unclear in meaning or effect.
  - “(4) If leave is granted, the appeal must be brought—
    - “(a) by the date fixed by the Environment Court when leave is granted; or 30
    - “(b) if no date is fixed by the Court, no later than 30 working days after the date leave is granted.”
- 133 Section 284A repealed** 35
- Section 284A is repealed.



**134 New section 285 substituted**

Section 285 is repealed and the following section substituted:

**“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. 5
- “(2) **Subsection (1)** does not apply if the Environment Court makes an order under **section 308G(7)(a)**.
- “(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. 10
- “(4) **Subsection (3)** does not apply if the Environment Court makes an order under **section 308G(7)(b)**.
- “(5) In proceedings under **section 87E**, the Environment Court must,— 15
- “(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) or 308C**; and 20
- “(ii) apply a presumption that costs under **subsection (3)** are to be ordered against the applicant; and 25
- “(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.” 30

**135 Section 289 repealed**

Section 289 is repealed. 35

**136 New section 290AA inserted**

The following section is inserted after section 290:

**“290AA Powers of Court in regard to appeals under clause 14 of Schedule 1**

“(1) The Environment Court, when hearing an appeal under clause 14(1) of Schedule 1, may consider only the question of law raised. 5

“(2) **Subsection (1)** applies unless the Court, under **section 280A**, grants the applicant concerned leave to extend the scope of the appeal to the merits of the local authority’s decision in respect of the provisions or matters referred to in the applicant’s submission.” 10

**137 Environment Court may order change to policy statements and plans**

(1) The heading to section 293 is amended by inserting “**proposed**” after “**change to**”. 15

(2) Section 293(1), (3), (4), and (5) are amended by omitting “policy statement or plan” in each place where it appears and substituting in each case “proposed policy statement or plan”.

**138 Appeals to the Court of Appeal** 20

Section 308 is amended by adding the following subsections as subsections (2) to (6):

“(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 150AA. 25

“(3) However, a party may apply for leave of the Supreme Court to bring an appeal to that Court against a determination referred to in **subsection (2)** and, for this purpose, sections 12 to 15 of the Supreme Court Act 2003 apply with any necessary modifications. 30

“(4) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 14 of that Act) but considers that a further appeal from the determination is justified, the Court may remit the proposed appeal to the Court of Appeal. 35

- “(5) No appeal may be made from any appeal determined by the Court of Appeal in accordance with **subsection (4)**.
- “(6) Despite any enactment to the contrary,—
- “(a) an application for leave for the purposes of **subsection (4)** must be filed no later than 10 working days after the determination of the High Court; and 5
  - “(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.” 10
- 139 New Part 11A inserted**  
The following Part is inserted after section 308:
- “Part 11A**  
**“Act not to be used to oppose trade competitors”** 15
- “308A Identification of trade competitors and surrogates**  
In this Part,—
- “(a) **person A** means a trade competitor of person B:
  - “(b) **person B** means the person of whom person A is a trade competitor: 20
  - “(c) **person C** means—
    - “(i) a person whom person A proposes to help to bring an appeal, or be a party to an appeal, against a decision under this Act in favour of person B; and 25
    - “(ii) a person whom person A helps to bring an appeal, or be a party to an appeal, against a decision under this Act in favour of person B.
- “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. 30
  - “(2) Person A may make the submission only if directly affected by an effect of the subject matter of the application that—
    - “(a) adversely affects the environment; and
    - “(b) does not relate to trade competition or the effects of trade competition. 35

“(3) **Clauses 6(4) and 29(1B)** of Schedule 1 also set limits on the rights of trade competitors to make submissions.

“**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. 5

“(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— 10

- “(a) adversely affects the environment; and
- “(b) does not relate to trade competition or the effects of trade competition.

“**308D Limit on appealing to Environment Court**

Person A must not bring an appeal, or be a party to an appeal, to the Environment Court for any of the following purposes: 15

- “(a) protecting person A from trade competition:
- “(b) preventing person B from engaging in competitive conduct in the same market:
- “(c) deterring person B from engaging in competitive conduct in the same market. 20

“**308E Prohibition on using surrogate**

Person A must not directly or indirectly help person C to bring an appeal, or be a party to an appeal, against a decision under this Act in favour of person B for any of the purposes in **section 308D**. 25

“**308F Surrogate must disclose status**

Person C must tell the Environment Court if person C—

- “(a) appears before the Environment Court as the appellant, or as a party to an appeal, against a decision under this Act in favour of person B; and 30
- “(b) has received, is receiving, or may receive direct or indirect help from person A to bring the appeal or be a party to the appeal for any of the purposes in **section 308D**.

**“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 5  
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. 10
- “(2) Any person (other than person A or person C) who was a party to an appeal against a decision under this Act in favour of person B may bring the proceedings.
- “(3) The proceedings must not be commenced until the appeal against the decision under this Act in favour of person B is determined. 15
- “(4) The proceedings must be commenced within 10 years after the contravention.
- “(5) The Environment Court may make the declaration.
- “(6) The Environment Court may decline to make an order 20  
under **subsection (7)** 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 (7)**, it may make an order under **section 285(1) or (3)**. 25
- “(7) If the Environment Court makes a declaration, it must also make the following orders:
- “(a) an order that the party against whom it makes the declaration pay to any other party all the costs and expenses (including witness expenses) that that party incurred because the party against whom the declaration is made 30  
contravened the provisions in this Part:
  - “(b) an order that the party against whom it makes the declaration pay to the Crown all costs and expenses incurred by the court because the party contravened the provision in this Part: 35
  - “(c) if the declaration is made against person C, 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.

**“308H 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. 5

“(2) The proceedings must be brought in accordance with the High Court Rules.

“(3) The proceedings must be commenced within 6 years after the declaration is made. 10

“(4) The High Court may 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.”

**140 Appeals** 15

(1) Section 325(3F) is amended by inserting “legal” after “such stay has”.

(2) Section 325(4) is repealed.

**141 Penalties**

(1) Section 339(1) is repealed and the following subsections are substituted: 20

“(1) Every person who commits an offence against section 338(1), (1A), or (1B) is liable on conviction,—

“(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or a fine not exceeding \$300,000: 25

“(b) in the case of a body corporate, 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.” 30

(2) Section 339(5) is repealed and the following subsection substituted:

- “(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 any or all 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.” 5

**142 Service of documents**

- (1) Section 352(1)(b) is amended by omitting “, including by facsimile”.
- (2) Section 352(1)(ca) and (d) are repealed and the following paragraphs substituted:
- “(d) by posting it to the Post Office box address that the person has specified as an address for service; or 15
- “(e) by leaving it at a document exchange for direction to the document exchange box number that the person has specified as an address for service; or
- “(f) by sending it to the fax number that the person has specified as an address for service; or 20
- “(g) by sending it to the email address that the person has specified as an address for service; or
- “(h) by serving it in the manner that the Environment Court directs in the particular case.”
- (3) Section 352(5) is amended by omitting “(ca)” and substituting “(d)”. 25

**143 Right of objection to consent authority against certain decisions or requirements**

- (1) Section 357A(1)(b) and (c) are repealed.
- (2) Section 357A(1)(e) is repealed and the following paragraphs are substituted:
- “(e) in respect of a decision of the authority under **section 87D**, for a person who made a request under **section 87C**:
- “(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— 35

- “(i) the application or review was publicly notified (within the meaning of **section 93**) under **section 94AA** or served under **section 94AAB**; and
- “(ii) either no submissions were received or any submissions received were withdrawn: 5
- “(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 publicly notified or served.”
- (3) Section 357A(2) and (3) are repealed and the following subsections substituted: 10
- “(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 15 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 20 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 25 notice.”
- 144 Appeals against certain decisions or objections**  
Section 358(1) is amended by omitting “section 357A” and substituting “section 357A(1)(a), (d), (f), or (g)”.
- 145 Regulations** 30  
Section 360 is amended by adding the following subsection:  
“(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 35 regulations under section 360.”



**146 Applications for works, etc, in coastal marine area**

- (1) Section 395(1) is amended by omitting “the Minister of Transport” and substituting “Maritime New Zealand”.
- (2) Section 395(1A) is amended by omitting “the Minister of Transport” and substituting “Maritime New Zealand”. 5
- (3) Section 395(2) is amended by—
  - (a) omitting “the Minister of Transport” and substituting “Maritime New Zealand”; and
  - (b) omitting “the Minister” in each place where it appears and substituting in each case “Maritime New Zealand”. 10
- (4) Section 395(3)(a) is amended by omitting “the Minister’s” and substituting “Maritime New Zealand’s”.

**147 Non-complying activities category removed from Act**

- (1) The category of non-complying activities is removed from the Act. 15
- (2) For the purposes of **subsection (1)**,—
  - (a) the principal Act is amended in the manner set out in **Schedule 1**; and
  - (b) each local authority must—
    - (i) amend its plan or proposed plan, including any rules in the plan or proposed plan, to delete any reference to a non-complying activity; and 20
    - (ii) replace each reference with a reference to a discretionary activity; and
    - (iii) make any other necessary consequential amendments. 25
- (3) A local authority—
  - (a) may make the amendments required under **subsection (2)(b)** without further authority than this section; and
  - (b) to avoid doubt, is not required to use the procedure in Schedule 1 of the principal Act to make the amendments. 30

**148 Amendments to Schedule 1 of principal Act**

- (1) This section amends Schedule 1 of the principal Act.
- (2) The heading to clause 1 is amended by omitting “**Interpretation and time**” and substituting “**Time**”. 35

- (3) Clause (1) is repealed.
- (4) Clause 3C is amended by omitting “12” and substituting “36”.
- (5) Clause 4(4) is amended by omitting “local” and substituting “territorial”.
- (6) Clause 4(7) is repealed and the following subclause substituted: 5
  - “(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.” 10
- (7) Clause 5(1A)(a) is amended by omitting “local” and substituting “territorial”.
- (8) Clauses 6, 7, 8, and 8A are repealed and the following clauses substituted: 15
  - “**6 Making of submissions**
  - “(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. 20
  - “(3) Any other person may make a submission but, if the person could gain a trade advantage over a competitor or potential competitor in the same market through the submission, the person’s right to make a submission is limited by **subclause (4)**. 25
  - “(4) A person who could gain a trade advantage over a competitor or potential competitor in the same market 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 30
    - “(b) does not relate to trade competition or the effects of trade competition.
  - “(5) A submission must be in the prescribed form.
- “**7 Public notice of submissions**
- “(1) A local authority must give public notice of— 35

- “(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. 5
- “(2) The local authority must serve a copy of the public notice on all persons who made submissions.
- “**8 Local authority may seek view of person affected by matters raised in submissions**
- “(1) A local authority may seek the view of any person that it considers may be adversely affected by a matter raised in a submission made under **clause 6** in the period— 10
- “(a) starting on the closing date for submissions; and
  - “(b) ending 10 working days— 15
    - “(i) before the commencement of the hearing under clause 8B at which the submission concerned will be considered; or
    - “(ii) if no hearing is required under clause 8C, ending 10 working days before a decision is made under clause 10. 20
- “(2) The local authority must prepare a report summarising any matters raised under **subclause (1)** and, for the purposes of completing the process in this schedule, the report must be treated as if it were a report prepared under **section 92AB(1) to (3) and (7)**. 25
- “(3) The local authority must, by public notice, advise—
- “(a) the availability of the report; and
  - “(b) where the report and any written views obtained under **subclause (1)** may be inspected.
- “(4) The local authority must serve a copy of the public notice on all persons who made a submission. 30
- “(5) To avoid doubt, this clause does not limit or affect the local authority’s ability to discuss, at any time, matters arising from the proposed policy statement or plan concerned.”
- (9) Clause 8B(a) is amended by omitting “or further submission.” 35
- (10) Clause 9(1) and (2) are repealed and the following subclauses substituted:

- “(1) The territorial authority must, in accordance with section 171, make a decision on a provision included in the proposed district plan under clause 4(5)—
  - “(a) for a designation that the territorial authority received notice of; or 5
  - “(b) for a requirement for a designation.
- “(2) The territorial authority must, in accordance with section 168A(3) and (4) or section 189A(3) (as the case may be), make a decision on a provision included in the proposed district plan under clause 4(6). 10
- “(2A) The territorial authority must, in accordance with section 191, make a decision on a provision included in the proposed district plan under clause 4(5)—
  - “(a) for an existing heritage order; or
  - “(b) for a requirement for a heritage order.” 15
- (11) Clause 9 is amended by adding the following subclause:
  - “(4) This clause overrides **clause 10**.”
- (12) Clause 10 is repealed and the following clause substituted:
  - “**10 Decisions on all other provisions or matters**
  - “(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. 20
  - “(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— 25
      - “(i) the provisions of the proposed statement or plan to which they relate; or
      - “(ii) the matters to which they relate; and
    - “(b) may include— 30
      - “(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. 35
  - “(3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.
  - “(4) The local authority must—

- “(a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and  
“(b) publicly notify that fact 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.” 5
- (13) Clause 11 is amended by repealing subclause (1) and substituting the following subclause:
- “(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,— 10
- “(a) a copy of the public notice; and  
“(b) a statement of the time within which an appeal may be lodged by the person.” 15
- (14) Clause 11(2) is repealed and the following subclause substituted:
- “(2) Where a decision has been made under clause 9, 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— 20
- “(a) the requiring authority or heritage protection authority concerned; and  
“(b) landowners and occupiers who, in the territorial authority’s opinion, are directly affected by the decision.” 25
- (15) Clause 11(3) is amended by omitting “gives a notice summarising a decision,” and substituting “serves or provides a copy of the public notice under **subclause (1)** or (2),”.
- (16) Clause 13 is repealed.
- (17) Clause 14(2) is repealed and the following subclauses are substituted: 30
- “(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 35
- “(b) the appeal does not seek the withdrawal of the proposed policy statement or plan as a whole.

- “(2A) The right of appeal under subclause (1) is on a question of law only, unless the person is granted leave under **section 280A** to extend the scope of the appeal.
- “(2B) A requiring authority or an heritage protection authority may appeal to the Environment Court against a territorial authority’s decision under clause 9.” 5
- (18) Clause 14(3) is repealed.
- (19) Clause 14(4) is amended by omitting “or service of the notice of decision of the requiring authority or heritage protection authority under clause 13, as the case may be”. 10
- (20) Clause 16(1) is repealed and the following subclause substituted:
- “(1) A local authority must, without further formality, 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.” 15
- (21) Clause 16(3) is repealed.
- (22) Clause 20(4)(b) is repealed.
- (23) Clause 25(2)(a)(iii) is amended by inserting “legal” after “request has”. 20
- (24) Clause 25 is amended by inserting the following subclause after subclause (2):
- “(2A) Subclause (2)(a)(iii) is subject to **section 86A**.”
- (25) Clause 25(3) is amended by inserting “(except **section 100A**)” after “Part 6”. 25
- (26) Clause 29(1) is amended by omitting “(2) to (9)” and substituting “**(1A)** to (9)”. 25
- (27) Clause 29 is amended by inserting the following subclauses after subclause (1):
- “(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)**. 30
- “(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— 35
- “(a) adversely affects the environment; and

“(b) does not relate to trade competition or the effects of trade competition.”

**149 Minor amendments**

The principal Act is amended in the manner set out in **Schedule 2** of this Act.

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**Part 2**

**Transitional provisions and amendments to other enactments**

Subpart 1—Transitional provisions

**150 Legal effect of rules**

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(1) This section applies to a rule in a plan or proposed plan if the plan or proposed plan was notified under clause 5 of Schedule 1 before the commencement of this section.

(2) The effect of the rule must be determined in accordance with the principal Act as if the amendments in this Act had not been made.

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**151 Existing rules providing for protection of trees**

(1) On the commencement of this section, an existing rule or part of a rule in a district plan or proposed district plan that provides for the protection of any tree, or group of trees, is revoked without further authority than this section.

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(2) **Subsection (1)** applies unless the rule relates to a tree, or group of trees,—

(a) specifically identified in a schedule to the plan or proposed plan; or

25

(b) located within an area in the district that—

(i) is a reserve (within the meaning of section 2(1) of the Reserves Act 1977); or

(ii) is subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.

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- (3) For the purposes of preparing for the amendments to the principal Act made under **subsection (1)**, each local authority must, before the commencement of that subsection,—
  - (a) amend any rule in its plan or proposed plan to which **subsection (1)** applies; and 5
  - (b) use the Schedule 1 procedure in that Act to make the amendment.

**152 Removal of non-complying activity category from principal Act**

- (1) For the purposes of preparing for the amendments to the principal Act made under **section 147**, each local authority must, before the commencement of **section 147**,—
  - (a) change its plan or vary its proposed plan (including any rules in it) to reclassify any non-complying activities in the plan or proposed plan to another activity status; and 15
  - (b) use the Schedule 1 procedure in that Act to make the change or variation.
- (2) An activity that is still referred to as a non-complying activity in a plan or proposed plan on the commencement of **section 147** must be treated, as from that date, as a reference to a discretionary activity for the purposes of—
  - (a) the principal Act; and
  - (b) the regulations; and
  - (c) any other enactment; and
  - (d) the plan or proposed plan, including any rule in the plan or proposed plan. 25

**153 National environmental standards**

The principal Act, as amended by this Act, applies to a national environmental standard, and any resource consent issued in accordance with it, whether the standard was in force before or after the commencement of **section 2(3)**. 30

**154 National policy statements**

The principal Act, as amended by this Act, applies to a national policy statement whether the statement was issued before or after the commencement of **section 2(3)**. 35



- 155 Matters referred directly to Environment Court**
- (1) **Subsection (2)** applies to a resource consent or notice of requirement—
- (a) lodged with a consent authority or a local authority before the commencement of **section 2(3)** of this Act; and 5
  - (b) accepted under section 88 of the principal Act.
- (2) The application must be determined as if the amendments made to the principal Act by this Act had not been made.
- 156 Proposals of national significance called in** 10
- (1) **Subsection (2)** applies to a resource consent application, notice of requirement, or plan change—
- (a) lodged with a consent authority before the commencement of **section 2(3)** of this Act; and
  - (b) called in by the Minister for the Environment or Minister of Conservation under the principal Act before that commencement. 15
- (2) The application, notice of requirement, or plan change must be determined as if the amendments made to the principal Act by this Act had not been made. 20
- 157 Restricted coastal activities**
- An application for a restricted coastal activity publicly notified before the commencement of **section 2(3)** must be determined as if the amendments made to the principal Act by this Act had not been made. 25
- 158 Notices of requirement**
- A notice of requirement lodged with a territorial authority before the commencement of **section 2(3)** must be determined as if the amendments made to the principal Act by this Act had not been made. 30
- 159 Enforcement proceedings**
- An application for an enforcement order lodged, or an information laid, before the commencement of **section 2(3)** must

be determined as if the amendments made to the principal Act by this Act had not been made.

## 160 Appeals

- (1) **Subsection (2)** applies to an appeal lodged with the Environment Court— 5
- (a) in respect of a decision on a proposed policy statement, proposed plan, change, or variation under Schedule 1 of the principal Act; and
  - (b) before the commencement of **section 2(3)** of this Act.
- (2) The appeal, and any further appeal filed before the commencement of **section 2(3)**, must be determined as if the amendments made to the principal Act by this Act had not been made. 10
- (3) **Section 131** applies to appeals lodged before the commencement of this Act, but only if neither mediation nor a hearing has begun. 15

## 161 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 20
  - (b) the applicant has not responded to a request by the consent authority under **section 92(1)** to provide further information within 12 months of the request. 25
- (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.

## 162 Applications and requirements lodged and accepted before commencement of section 2(3) 30

- (1) **Subsection (2)** applies to an application or requirement—
- (a) lodged with a consent authority or a territorial authority before the commencement of **section 2(3)**; and
  - (b) accepted under section 88 of the principal Act. 35

- (2) The application or requirement must be determined as if the amendments made to the principal Act by this Act had not been made.
- (3) **Subsection (2)** is subject to **section 153**.

**163 Certain proposed policy statements or plans, changes, and variations publicly notified before commencement of section 2(3)** 5

- (1) **Subsection (2)** applies to a proposed policy statement or plan, change, or variation that, before commencement of **section 2(3)**,— 10
  - (a) has been publicly notified; but
  - (b) has not proceeded to the stage at which no appeal or further appeal is possible.
- (2) The proposed policy statement or plan, change, or variation must be determined as if the amendments made to Schedule 1 15 of the principal Act by this Act had not been made.

Subpart 2—Other enactments

**164 Consequential amendments to Costs in Criminal Cases Act 1967**

- (1) This section amends the Costs in Criminal Cases Act 1967. 20
- (2) Section 4(5) is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”.
- (3) Section 7(3) is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”. 25
- (4) Section 10(2) is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”. 30

**165 Consequential amendments to Crown Organisations (Criminal Liability) Act 2002**

- (1) This section amends the Crown Organisations (Criminal Liability) Act 2002.
- (2) Section 3(b) is repealed and the following paragraph substituted: 5  
“(b) enable the prosecution of Crown organisations for offences under the Building Act 2004, the Health and Safety in Employment Act 1992, and the Resource Management Act 1991:” 10
- (3) Section 6(1) is amended by adding the following paragraph:  
“(c) an offence against the Resource Management Act 1991.”
- (4) Section 7(a) is repealed and the following paragraph substituted: 15  
“(a) compliance with the obligations imposed by the Building Act 2004, the Health and Safety in Employment Act 1992, or the Resource Management Act 1991; and”.
- (5) Section 8(5) is repealed and the following subsection substituted: 20  
“(5) This section is subject to section 54 of the Health and Safety in Employment Act 1992, sections 77A and 115A of the Summary Proceedings Act 1957, and **section 4(8)** of the Resource Management Act 1991.”
- (6) Section 10(1)(b) is amended by adding the following subparagraph: 25  
“(vii) **section 22** of the Resource Management Act 1991; or”.

**166 Amendments to Resource Management Amendment Act 2005** 30

Sections 2(5), 108, 115(2) to (4), and 117 of the Resource Management Amendment Act 2005 are repealed.

**167 Consequential amendments to Sentencing Act 2002**

Section 4(4) of the Sentencing Act 2002 is amended by omitting “or the Health and Safety in Employment Act 1992” and 35

substituting “, the Health and Safety in Employment Act 1992,  
or the Resource Management Act 1991”.

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**Schedule 1****s 147****Amendments required to remove  
non-complying activity category**

Definition of <b>non-complying activity</b> in section 2(1): repeal.	5
Definition of <b>restricted coastal activity</b> in section 2(1): omit “or non-complying activity”.	
Section 12A(2): repeal paragraphs (b) and (c) and substitute the following paragraph:	
“(b) a discretionary activity.”	10
Section 43A(6)(a): repeal subparagraphs (iii) and (iv) and substitute the following subparagraph:	
“(iii) a discretionary activity; and”.	
<b>Section 77A(2)(e)</b> : repeal.	
Section 87A(5): repeal.	15
<b>Section 87B(1)(b)</b> : omit “discretionary, or non-complying” and substitute “or discretionary”.	
Section 86(1)(a): omit “non-complying or”.	
Section 88A(1)(b): omit “discretionary, or non-complying” and substitute “or discretionary”.	20
Section 104(5): omit “a discretionary activity, or a non-complying” and substitute “or a discretionary”.	
Section 104B: omit “ <b>or non-complying</b> ”.	
Section 104B: omit “or non-complying activity”.	
Section 104D: repeal.	25
Section 130(4)(b): omit “discretionary, or non-complying” and substitute “or discretionary.”	
Section 310(d): omit “non-complying activity,”.	
Section 360(1)(ha)(i): omit “non-complying activities,”.	

**Schedule 2**

**s 149**

**Minor amendments**

**Amendments required because District Land Registrars and Registrars of Deeds no longer exist** 5

Section 109(2): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 218(1)(a)(i) and (v) and (b): omit “a District Land Registrar” and substitute in each case “the Registrar-General of Land”.

Section 220(3): omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”. 10

Section 221(5): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 224(b): omit “District Land Registrar or Registrar of Deeds” and substitute “Registrar-General of Land”. 15

Section 224(c) and (d): omit “District Land Registrar or the Registrar of Deeds, as the case may require,” and substitute in each case “Registrar-General of Land”.

Section 224(g): omit “District Land Registrar or the Registrar of Deeds, as the case may be,” and substitute “Registrar-General of Land”. 20

Section 226(1): omit “A District Land Registrar” and substitute “The Registrar-General of Land”.

Section 226A(2): omit “District Land Registrar” and substitute “Registrar-General of Land”. 25

Section 228: omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 232(2)(e): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 234(7) and (8): omit “District Land Registrar” and substitute in each case “Registrar-General of Land”. 30

Section 235(2): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 237(3): omit “District Land Registrar” and substitute “Registrar-General of Land”. 35

Section 237(4)(b): omit “a District Land Registrar or a Registrar of Deeds” and substitute “the Registrar-General of Land”.

**Amendments required because District Land Registrars and  
Registrars of Deeds no longer exist—continued**

Section 237(4)(b): omit “the District Land Registrar” and substitute  
“the Registrar-General of Land”.

Section 237B(5) and (7): omit “District Land Registrar” and substi-  
tute in each case “Registrar-General of Land”.

Section 237D(3): omit “District Land Registrar” and substitute 5  
“Registrar-General of Land”.

Section 238(1): omit “a District Land Registrar or Registrar of  
Deeds” and substitute “the Registrar-General of Land”.

Section 239(1): omit “a District Land Registrar or a Registrar of  
Deeds” and substitute “the Registrar-General of Land”. 10

Section 240(2)(a): omit “District Land Registrar” and substitute  
“Registrar-General of Land”.

Section 240(2)(b): omit “Registrar of Deeds” and substitute “Regis-  
trar-General of Land”.

Section 240(5)(b): omit “District Land Registrar or Registrar of 15  
Deeds” and substitute “Registrar-General of Land”.

Section 240(5)(b): omit “District Land Registrar or the Registrar of  
Deeds” and substitute “Registrar-General of Land”.

Section 241(1)(b): omit “District Land Registrar or the Registrar of  
Deeds” and substitute “Registrar-General of Land”. 20

Section 241(1)(c): omit “District Land Registrar” and substitute  
“Registrar-General of Land”.

Section 241(1): omit “that Registrar” and substitute “the Registrar-  
General”.

Section 241(2)(b): omit “District Land Registrar” and substitute 25  
“Registrar-General of Land”.

Section 241(4)(b): omit “District Land Registrar or Registrar of  
Deeds” and substitute “Registrar-General of Land”.

Section 241(4)(b): omit “District Land Registrar or the Registrar of  
Deeds” and substitute “Registrar-General of Land”. 30

Section 242: omit “District Land Registrar” in each place where it  
appears and substitute in each case “Registrar-General of Land”.



**Amendments required because District Land Registrars and  
Registrars of Deeds no longer exist—continued**

Section 243(c), (d), and (f)(ii): omit “District Land Registrar or the Registrar of Deeds” and substitute in each case “Registrar-General of Land”.

Section 243(f)(ii): omit “District Land Registrar or Registrar of Deeds” and substitute “Registrar-General of Land”. 5

Section 246(1): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 246(2): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 246(2)(b): omit “District Land Registrar or the Registrar of Deeds” and substitute “Registrar-General of Land”. 10

Section 246(3): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 355(4)(c) and (d) and (5): omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”. 15

Section 417(6) and (7): omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 417(6): omit “District Land Registrar’s” and substitute “Registrar-General of Land’s”. 20

**Amendment required because Hazards Control Commission  
never existed**

Section 24(g): omit “, and the functions, powers, and duties of the Hazards Control Commission under Part 13”. 25

**Amendments required because Schedule 2 no longer exists**

Section 77(4): omit “in clause 5 of Part 2 of Schedule 2”.

Section 230(1): omit “405A, and clause 5 of Part 2 of Schedule 2” and substitute “and 405A”.

**Amendments required that are technical or are consequential to  
amendments in this Act**

- Definition of **controlled activity** in section 2(1): omit “section 77B(2)” and substitute “**section 87A(2)**”.
- Definition of **discretionary activity** in section 2(1): omit “section 77B(4)” and substitute “**section 87A(4)**”. 5
- Definition of **non-complying activity** in section 2(1): omit “section 77B(5)” and substitute “**section 87A(5)**”.
- Definition of **permitted activity** in section 2(1): omit “section 77B(1)” and substitute “**section 87A(1)**”. 10
- Definition of **prohibited activity** in section 2(1): omit “section 77B(7)” and substitute “**section 87A(6)**”.
- Definition of **restricted discretionary activity** in section 2(1): omit “section 77B(3)” and substitute “**section 87A(3)**”.
- Section 32(1)(c) and (d): omit “of Part 2” in each case. 15
- Section 36D : insert “legal” after “agreement has”.
- Section 39B(1)(a): omit “section 93” and substitute “**section 94AA**”.
- Section 40: omit “a hearing” from heading and substitute “**hearings**”. 20
- Section 81(2): omit “(as defined in section 9)”.
- Section 85(3): omit “section 9(1)” and substitute “**section 9(2)**”.
- Section 85B(1)(a) : omit “or clause 8”.
- Section 88(1) : omit “local” and substitute “consent”.
- Section 88(3) : omit “local” and substitute “consent”. 25
- Section 88(4) : omit “relevant local” and substitute “consent”.
- Section 97: omit “section 93” and substitute “**section 94AA**” and omit “section 94(1)” and substitute “**section 94AAB**”.
- Section 104D(1): omit “section 93 ”and substitute “**section 94AA**”.
- Section 106(1): omit “section 77B” and substitute “**section 87A**”. 30
- Section 107A(3): omit “Despite sections 77B(2)(a)” and substitute “Despite **sections 87A(2)(a)**”.
- Section 108(2)(f): omit “section 77B(2)(c) or (3)(c)” and substitute “**section 87A(2)(c) or (3)(b)**”.
- Section 112(2): omit “section 14(1)(c)” and substitute “**section 14(2)(c)**”. 35

**Amendments required that are technical or are consequential to amendments in this Act—continued**

- Section 115(b)(i) : omit “local” and substitute “consent”.
- Section 115(b)(ii): omit “notified under section 93 or section 94C or if notice of the application is served under section 94” and substitute “publicly notified (within the meaning of **section 93**) under **section 94AA** or served under **section 94AAB**”. 5
- Section 127(4) : omit “local” and substitute “consent”.
- Section 178(3) : omit “to the territorial authority”.
- Section 178(5) : omit “the requiring authority gives notice of the requirement” and substitute “notice is given”.
- Section 189(1) : insert “in the prescribed form” after “give notice”. 10
- Section 189(3): repeal.
- Section 192(a): repeal.
- Section 193(a): omit “described in section 9(4)”.
- Section 228(1)(a) : insert “legal” after “subdivision has”.
- Section 245(2): omit “Survey Act 1986” and substitute “Cadastral Survey Act 2002”. 15
- Section 287(1) : omit “point” and substitute “question”.
- Section 299(1) : omit “point” and substitute “question”.
- Section 303(3) : omit “point” and substitute “question”.
- Section 305: omit “**points**” from heading and substitute “**questions**”. 20
- Section 305(1) : omit “points” and substitute “questions”.
- Section 357B(b): omit “section 149B(3) or (4)” and substitute “section 149B(3), **(3A)**, and (4)”.
- Section 373(4): omit “within the meaning of section 9(4)”.
- Section 390C(1)(a): omit “section 93 or notice of the application served in accordance with section 94” and substitute “**section 94AA** or served under **section 94AAB**”. 25
- Section 390C(2): omit “section 93” and substitute “**section 94AA**”.
- Section 391A(2)(a): omit “section 93 or notice of the application served in accordance with section 94” and substitute “**section 94AA** or served under **section 94AAB**”. 30
- Section 393(1)(e): omit “section 93 or notice of the application served in accordance with section 94 of this Act” and substitute “**section 94AA** or served under **section 94AAB**”.

**Amendments required that are technical or are consequential to  
amendments in this Act—continued**

Section 409(4): omit “section 93” and substitute “**section 94AA**”.

Section 417A(1): omit “subsections (1) and (2) of section 9” and  
substitute “**section 9(2) and (3)**”.

Section 417A(2): omit “subsections (1) and (2) of section 9” and  
substitute “**section 9(2) and (3)**”.

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Section 417A(3): omit “subsections (1) and (2) of section 9” and  
substitute “**section 9(2) and (3)**”.

Section 418(2): omit “paragraphs (b) and (c) of section 14(1)” and  
substitute “**section 14(2)(b) and (c)**”.

Section 418(4): omit “paragraphs (b) and (c) of section 14(1)” and  
substitute “**section 14(2)(b)**”.

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Section 418(8): omit “section 14(1)(a)” and substitute “**section  
14(2)(a)**”.

Section 418(9): omit “section 14(1)(a)” and substitute “**section  
14(2)(a)**”.

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Clause 2(g) of Schedule 10: omit “Noxious Plants Act 1978” and  
substitute “Biosecurity Act 1993”.

Clause 2(h) of Schedule 10: omit “Agricultural Pests Destruction Act  
1967” and substitute “Biosecurity Act 1993”.