

# **Water Services Acts Repeal Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill is an omnibus Bill that repeals the Water Services Entities Act 2022, the Water Services Legislation Act 2023, and the Water Services Economic Efficiency and Consumer Protection Act 2023. The Bill is introduced in accordance with Standing Order 267(1)(a) as it deals with an interrelated topic that can be regarded as implementing a single broad policy. The single broad policy is to repeal legislation relating to water services entities and their economic regulation, reinstate the previous legislation that was in place, and retain technical amendments relating to regulation of water services by Taumata Arowai—the Water Services Regulator.

### **Introduction**

The Bill repeals legislation relating to water services entities and their economic regulation and reinstates legislation that was in place before the introduction of water services entities. It returns the responsibility for water services delivery to local authorities.

The Bill is part of the Government's 100-day plan and is the first stage of delivering Local Water Done Well, which will lay a foundation for a new system with stronger central government oversight, economic and quality regulation, and requirements for local authorities to use financially sustainable delivery models.

### **Key features of the legislation**

This Bill repeals the Water Services Entities Act 2022, the Water Services Legislation Act 2023, and the Water Services Economic Efficiency and Consumer Protection Act 2023. The Bill ends the 10-entity model that was part of those Acts. The Bill reinstates previous legislation relating to water services delivery, including legislation that was amended by the Water Services Legislation Act 2023.

The Bill disestablishes the Northland and Auckland Water Services Entity, its establishment board, and the chief executive of that entity. Employment arrangements with the entity will be terminated, with its employees entitled to any redundancy arrangements they may have. The Bill transfers any residual assets, liabilities, and information of that entity to the Department of Internal Affairs.

The Bill retains technical amendments that improve the regulation of water services by Taumata Arowai, including amendments to the Taumata Arowai—the Water Services Regulator Act 2020, the Water Services Act 2021, and related Acts. The Bill repeals out-of-date local Acts.

The Bill retains obligations relating to the regulation of water services in three Treaty settlement Acts. For the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Act 2010 and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, any person exercising functions or powers under the Taumata Arowai—the Water Services Regulator Act 2020 or the Water Services Act 2021 will need to have particular regard to Te Ture Whaimana (the vision and strategy of the Waikato River). For the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, any person exercising functions, duties, or powers under the Taumata Arowai—the Water Services Regulator Act 2020 or the Water Services Act 2021 will need to recognise and provide for Te Awa Tupua status (the legal personality of the Whanganui River) and Tupua Te Kawa (the vision and strategy of the Whanganui River).

### **Transitional arrangements for local authorities**

The Bill includes transitional arrangements for local authorities to include water services provision in their 2024–34 long-term plans. The transitional arrangements are designed to provide relief for the completion of local authorities' upcoming plans. The modifications set out a range of options that local authorities can use. The options are voluntary (local authorities can continue with their long-term plans as normal if they wish) and include the following:

- local authorities that have started long-term plan consultation under previous policy settings may include water services material in the final plan, without reconsulting:
- local authorities may have unaudited long-term plan consultation documents:
- if local authorities have started to prepare or consult on long-term planning material that includes water services information before commencement of this Bill, that consultation is validated:
- local authorities may extend the statutory deadline by which the 2024 long-term plan must be adopted by 3 months, to 30 September 2024:
- local authorities may extend the statutory deadline by which local authority annual reports for 2023/24 must be adopted to the end of December 2024:
- local authorities may defer their 2024–2034 long-term plan by a year, replaced by an “enhanced” annual plan for the 2024/25 financial year. A council must

make a decision to do so by 30 April 2024, but if it does not, it may be authorised to defer its plan by Order in Council.

The Bill allows local authorities to defer a review of a water services bylaw, if that review would ordinarily be required between 15 December 2022 and the end of 2025. If there is a deferral, the review would need to be completed by 1 July 2026 at the latest.

### **Departmental disclosure statement**

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2024&no=13>

### **Regulatory impact statement**

The policy decisions relating to the contents of this Bill are not subject to the regulatory impact statement requirements. This reflects Cabinet's decision to suspend the requirement for regulatory impact statements for decisions relating to 100-day plan proposals (taken within the 100 days) that solely involve the repeal of legislation.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides for the Bill to come into force on the day after Royal assent.

## **Part 1**

### **Preliminary provisions**

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

- to repeal the Water Services Entities Act 2022, the Water Services Legislation Act 2023, and the Water Services Economic Efficiency and Consumer Protection Act 2023; and
- to disestablish the Northland and Auckland Water Services Entity; and
- to make transitional arrangements for local authorities' long-term plans.

*Clause 4* defines terms used in the Bill.

*Clause 5* provides that any transitional, savings, and related provisions are set out in *Schedule 1*.

*Clause 6* provides that the Bill, when enacted, is repealed 1 year after it comes into force.

*Clause 7* provides that the enacted Bill binds the Crown.

## Part 2

### Repeals and disestablishment of Northland and Auckland Water Services Entity

#### Subpart 1—Repeals and consequential amendments

*Clause 8* repeals the Water Services Entities Act 2022.

*Clause 9* repeals the Water Services Legislation Act 2023.

*Clause 10* repeals the Water Services Economic Efficiency and Consumer Protection Act 2023.

*Clause 11* repeals the local Acts listed in *Schedule 3*. The local Acts relate to the provision of water services but are now spent.

*Clause 12* makes consequential amendments to the legislation set out in *Schedule 2*.

#### Subpart 2—Disestablishment of Northland and Auckland Water Services Entity

*Clause 13* disestablishes the Northland and Auckland Water Services Entity (the **NAWSE**).

*Clause 14* disestablishes the establishment board of the NAWSE.

*Clause 15* disestablishes the position of establishment chief executive of the NAWSE.

*Clause 16* terminates any employment by the NAWSE, any appointments to roles with the NAWSE, and any contracts between independent contractors and the NAWSE.

*Clause 17* provides for the effect of terminating employment under *clauses 15 and 16*.

*Clause 18* provides that any residual assets, liabilities, etc, of the NAWSE are vested in the Crown. Any information held by the NAWSE before it is disestablished is transferred to the department.

*Schedule 1* sets out any transitional, savings, or related provisions.

*Schedule 2* sets out the consequential amendments to primary legislation (*see Part 1*) and secondary legislation (*see Part 2*).

*Schedule 3* lists various local Acts that relate to water services, but that are now spent. Those Acts are repealed.

*Hon Simeon Brown*

## **Water Services Acts Repeal Bill**

Government Bill

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

**1 Title**

This Act is the Water Services Acts Repeal Act **2024**.

**2 Commencement**

This Act comes into force on the day after Royal assent.

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**Part 1**

**Preliminary provisions**

**3 Purposes**

The purposes of this Act are—

- (a) to repeal the Water Services Entities Act 2022, the Water Services Legislation Act 2023, and the Water Services Economic Efficiency and Consumer Protection Act 2023; and 10
- (b) to disestablish the Northland and Auckland Water Services Entity and make related transitional arrangements; and
- (c) to make transitional arrangements for local authorities' long-term plans by amending the Local Government Act 2002. 15

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**department** means the department, departmental agency, or interdepartmental venture (as named in Part 1, 2, or 4 of Schedule 2 of the Public Service Act 2020) that, with the authority of the Prime Minister, is responsible for the administration of this Act 20

**local authority** has the meaning given in section 5(1) of the Local Government Act 2002

**long-term plan** has the meaning given in section 5(1) of the Local Government Act 2002

**Northland and Auckland Water Services Entity** or **NAWSE** means the Northland and Auckland Water Services Entity established by section 11 of the Water Services Entities Act 2022. 5

## 5 **Transitional, savings, and related provisions**

The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.

## 6 **Repeal of this Act**

This Act is repealed on the first anniversary of the day on which it comes into force. 10

## 7 **Act binds the Crown**

This Act binds the Crown.

## **Part 2**

### **Repeals and disestablishment of Northland and Auckland Water Services Entity** 15

#### Subpart 1—Repeals and consequential amendments

## 8 **Repeal of Water Services Entities Act 2022**

The Water Services Entities Act 2022 (2022 No 77) is repealed.

## 9 **Repeal of Water Services Legislation Act 2023** 20

The Water Services Legislation Act 2023 (2023 No 52) is repealed.

## 10 **Repeal of Water Services Economic Efficiency and Consumer Protection Act 2023**

The Water Services Economic Efficiency and Consumer Protection Act 2023 (2023 No 54) is repealed. 25

## 11 **Repeal of spent local Acts**

The Acts specified in **Schedule 3** are repealed.

## 12 **Consequential amendments**

- (1) Amend the Acts specified in **Part 1 of Schedule 2** as set out in that Part.
- (2) Amend the secondary legislation specified in **Part 2 of Schedule 2** as set out in that Part. 30

## Subpart 2—Disestablishment of Northland and Auckland Water Services Entity

- 13 Northland and Auckland Water Services Entity disestablished**  
The Northland and Auckland Water Services Entity is disestablished.
- 14 Establishment board of NAWSE disestablished** 5  
(1) The establishment board of the NAWSE (*see* clause 3(dc) of Schedule 1 of the Water Services Entities Act 2022) is disestablished.  
(2) The members of the establishment board immediately before this section comes into force cease to hold office.  
(3) An establishment board member is not entitled to any compensation or other payment or benefit relating to them ceasing to hold office as an establishment board member due to the disestablishment of the establishment board. 10
- 15 Establishment chief executive of NAWSE disestablished**  
(1) The position of establishment chief executive of the NAWSE is disestablished.  
(2) The employment of the person holding the position of establishment chief executive immediately before this section comes into force is terminated by reason of redundancy. 15
- 16 Other employment, appointments, and contracts terminated**  
(1) If a person is employed by the NAWSE immediately before this section comes into force,— 20  
(a) the position in which the person is employed is disestablished; and  
(b) the person’s employment is terminated by reason of redundancy.  
(2) If a person has been appointed to a role with the NAWSE and the person holds the role immediately before this section comes into force,—  
(a) the role is disestablished; and 25  
(b) the person’s appointment is terminated.  
(3) Any contract between the NAWSE and an independent contractor that is in force immediately before this section comes into force is terminated.
- 17 Effect of termination of employment** 30  
An employee (including the establishment chief executive) whose employment is terminated under **section 15 or 16** is entitled to receive any payment or benefit that the employee would have been entitled to receive if their employment had been terminated by reason of redundancy other than by this Act.

- 18 Residual assets, contracts, liabilities, agreements, leases, information, etc**
- (1) All residual assets, contracts, liabilities, agreements, leases, and licence arrangements of the NAWSE that existed immediately before this section comes into force are vested in the Crown as assets, contracts, liabilities, agreements, leases, or licence arrangements of the department. 5
- (2) All information held by the NAWSE immediately before this section comes into force is transferred to the department.
- (3) All money payable to or by the NAWSE immediately before this Act comes into force becomes payable to or by the department.
- (4) Unless the context otherwise requires, anything done, omitted to be done, or to be done by, or in relation to, the NAWSE is to be treated as having been done, having been omitted to be done, or having to be done by, or in relation to, the department. 10
- (5) However, under **subsections (1) to (4)**,—
- (a) all employment agreements, appointments, and contracts with independent contractors terminated under **section 15 or 16** do not transfer to the department; but 15
- (b) all liabilities arising from the termination of those arrangements, including any liability related to an agreed notice period, transfer to the department in accordance with **subsection (1)**. 20
- (6) To avoid doubt, nothing in this subpart—
- (a) places the Crown, the department, or any other person in breach of contract or confidence or otherwise makes them liable for a civil wrong; or
- (b) places any of those persons or any other person in breach of an enactment, a rule of law, or a provision of a contract that prohibits, restricts, or regulates the assignment or transfer of property or the disclosure of information; or 25
- (c) entitles a person to—
- (i) terminate or cancel or modify a contract or an arrangement; or
- (ii) enforce or accelerate the performance of an obligation; or 30
- (iii) impose a penalty or an increased charge; or
- (d) releases a surety wholly or in part from any obligation; or
- (e) invalidates or discharges a contract or surety.
- (7) In this section,—
- assets** includes real or personal property, money, rights, or interests 35
- liabilities** includes debts, charges, duties, and other obligations, whether present, future, actual, contingent, payable, or to be observed or performed in New Zealand or elsewhere.

**Schedule 1**  
**Transitional, savings, and related provisions**

**s 5**

**Part 1**  
**Provisions relating to this Act as enacted**

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There are no transitional, savings, or related provisions in this Act as enacted.

## Schedule 2

### Consequential amendments

s 12

#### Part 1

#### Consequential amendments to Acts 5

##### **Commerce Act 1986 (1986 No 5)**

Repeal section 9(3B).

##### **Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)**

After section 6(1)(e), insert:

(f) an offence against the Water Services Act 2021. 10

In section 7(a), after “the Resource Management Act 1991,” insert “the Water Services Act 2021,”.

##### **Deposit Takers Act 2023 (2023 No 35)**

In Schedule 3, Part 1, repeal the item relating to the Water Services Entities Act 2022.

##### **Financial Markets Conduct Act 2013 (2013 No 69)** 15

In section 6(1), definition of **local authority**, delete “and section 173E of the Water Services Entities Act 2022”.

##### **Goods and Services Tax Act 1985 (1985 No 141)**

Repeal section 78I.

##### **Health Act 1956 (1956 No 65)** 20

In section 2(1), insert in its appropriate alphabetical order:

**Taumata Arowai** means Taumata Arowai—the Water Services Regulator established by section 8 of the Taumata Arowai—the Water Services Regulator Act 2020

Replace section 25(1)(a) and (b) with: 25

- (a) water supply reticulation and treatment;
- (b) wastewater reticulation, treatment, and disposal;
- (ba) stormwater reticulation, treatment, and disposal;

After section 25(6), insert:

(6A) Before approving a proposal under subsection (6), the Director-General must consult Taumata Arowai. 30

**Income Tax Act 2007 (2007 No 97)**

In section YA 1, definition of **local authority**, repeal paragraph (b)(ixa).

**Local Government Act 1974 (1974 No 66)**

In section 319(2), replace “wastewater” with “wastewater, stormwater,”.

Replace section 517K with:

5

**517K Right to object to transfer proposal**

The following may, in accordance with this Part, object to a transfer proposal filed under section 517E in relation to any land drainage scheme or water race scheme:

- (a) any scheme user who is the operator of a drainage system or water supply system that utilises the scheme to which the transfer proposal relates: 10
- (b) any other scheme user in relation to the scheme to which the transfer proposal relates:
- (c) any local authority within whose district the scheme to which the transfer proposal relates is wholly or partly situated or that is otherwise likely to be affected by the transfer of that scheme (including the local authority that has control of that scheme). 15

Replace section 517L with:

**517L Notice of right to object**

Subject to section 517F(3), a local authority that receives a transfer petition and transfer proposal under section 517E must, as soon as practicable after receiving it, forward a notice that complies with section 517M to— 20

- (a) every scheme user who is the operator of a drainage system or water supply system that utilises the scheme to which the transfer proposal relates; and 25
- (b) every other scheme user in relation to the scheme to which the transfer proposal relates; and
- (c) every local authority entitled under **section 517K(c)** to object to the transfer proposal.

**Local Government Act 2002 (2002 No 84)**

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In section 25(4), delete “, and may amend Schedule 2 of the Water Services Entities Act 2022, if appropriate, to reflect any future changes to the names, water services entity service areas, or both, of the local authorities referred to in that schedule”.

Repeal section 101B(4A).

After section 146(3) insert:

35

- (4) If a territorial authority makes bylaws under this Act or the Reserves Act 1977 relating to a stormwater network, the bylaws must give effect to any storm-

**Local Government Act 2002 (2002 No 84)—continued**

water environmental performance standards made under section 139A of the Water Services Act 2021.

In section 199L, after “this Act”, insert “or any other enactment”.

In Schedule 1AA, repeal Parts 6 and 7.

In Schedule 1AA, after Part 7, insert:

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**Part 8****Provisions relating to Water Services Acts Repeal Act 2024****42 Application**

(1) This Part—

- (a) applies to the Wellington Regional Council and to each territorial authority; but 10
- (b) does not apply to the Chatham Islands Council.

(2) In this Part,—

**2024 long-term plan material—**

- (a) means a consultation document related to a long-term plan that covers a period commencing at the start of the 2024/25 financial year; and 15
- (b) includes material or documentation relied on by the content of such a consultation document

**authority** means an entity to which this Part applies under **subclause (1)**.

*Long-term plans and annual plans* 20

**43 If authority had commenced consultation on 2024–2034 long-term plan**

(1) This clause applies to an authority if, before this Part comes into force, it adopts a consultation document for the purposes of its 2024–2034 long-term plan in accordance with Part 6 of this schedule (as it applied immediately before this Part came into force). 25

(2) The authority may, but need not,—

- (a) issue a new consultation document or reconsult on the long-term plan to take into account the Water Services Acts Repeal Act **2024**; and
- (b) if it issues a new consultation document or reconsults on the long-term plan, decide whether to use or adopt the special consultative procedure; and 30
- (c) delay adopting the long-term plan (in accordance with **clause 46**) to enable consultation on any changes to the 2024 long-term plan material required to comply with the Water Services Acts Repeal Act **2024**.

**Local Government Act 2002 (2002 No 84)—continued**

- (3) When finalising its long-term plan, the authority—
- (a) must ensure that it complies with sections 77, 78, and 79, but (contrary to section 79(1)(a)) the local authority is not required to ensure that its compliance with sections 77 and 78 is largely in proportion to the significance of the matters affected by the decision as determined in accordance with the policy under section 76AA; but 5
- (b) may, when complying with sections 77(1)(c) and 78(1), consider the views and preferences of any person in the manner it considers appropriate in the circumstances.
- (4) When it adopts its 2024–2034 long-term plan, the authority must ensure that the plan includes information that reflects the authority’s long-term role in relation to providing water services. 10
- (5) **Subclause (2)(b)** applies despite section 93(2).
- 44 If authority’s consultation on 2024–2034 long-term plan includes information relating to provision of water services** 15
- (1) An authority’s 2024–2034 long-term plan is not invalid as a result of the authority having, before this Part came into force,—
- (a) prepared 2024 long-term plan material that, contrary to the requirements of Part 6 of this schedule (as it applied immediately before this Part came into force), included information about the provision of water services; or 20
- (b) consulted on its 2024–2034 long-term plan and, contrary to the requirements of Part 6 of this schedule (as it applied immediately before this Part came into force), the 2024 long-term plan material having included information about the provision of water services. 25
- (2) In the circumstances described in **subclause (1)**, any rates set, assessed, or collected by the authority are not invalidated because the 2024 long-term plan material included information about the provision of water services contrary to Part 6 of this schedule.
- 45 Consultation document need not contain report from Auditor-General** 30
- (1) The consultation document for an authority’s 2024–2034 long-term plan need not contain a report from the Auditor-General.
- (2) **Subclause (1)** applies despite section 93C(4).
- 46 Extended time frame for adopting 2024–2034 long-term plan**
- (1) An authority may adopt its 2024–2034 long-term plan no later than 30 September 2024. 35
- (2) If an authority adopts its 2024–2034 long-term plan on or after 1 July 2024, but no later than 30 September 2024,—

**Local Government Act 2002 (2002 No 84)—continued**

- (a) the authority’s 2021–2031 long-term plan continues in force until the date on which the authority adopts its 2024–2034 long-term plan; and
- (b) the authority may extend the authority’s policy on development contributions or financial contributions so that the period to which it applies ends on the date on which the authority adopts its 2024–2034 long-term plan. 5
- (3) **Subclauses (1) and (2)(a)** apply despite section 93(3).
- 47 Extended time frame for adopting annual report**
- (1) This clause applies only if an authority decides to adopt its 2024–2034 long-term plan on or after 1 July 2024 but no later than 30 September 2024 under **clause 46**. 10
- (2) The authority may complete and adopt, by resolution, its annual report for the 2023/2024 financial year no later than 31 December 2024.
- (3) **Subclause (2)** applies despite section 98(3).
- Option to defer long-term plan* 15
- 48 Authority may defer adopting long-term plan**
- (1) An authority may defer adopting its 2024–2034 long-term plan by 1 year if—
- (a) the authority resolves to do so, no later than 30 April 2024; or
- (b) the authority is authorised to do so by an Order in Council.
- (2) **Subclause (1)** applies despite section 93. 20
- (3) For the purposes of **subclause (1)(b)**, the Governor-General may, by Order in Council made on the recommendation of the Minister, authorise an authority to defer adopting its 2024–2034 long-term plan in accordance with this clause and **clauses 49 to 53**.
- (4) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 25
- 49 Consequences if authority defers adopting long-term plan**
- (1) If an authority defers adopting its 2024–2034 long-term plan in accordance with **clause 48(1)**,—
- (a) the authority must, no later than 30 June 2025, adopt a long-term plan that relates to the period from 1 July 2025 to 30 June 2034; and 30
- (b) **clause 45** does not apply to the consultation document for a long-term plan described in **paragraph (a)**; and
- (c) the authority must, after adopting the long-term plan under **paragraph (a)** but no later than 30 June 2027, adopt a long-term plan that relates to the period from 1 July 2027 to 30 June 2037; and 35

**Local Government Act 2002 (2002 No 84)—continued**

- (d) the authority’s 2021–2031 long-term plan continues in force until the date on which the authority’s long-term plan that relates to the period from 1 July 2025 to 30 June 2034 comes into force; and
- (e) the authority may extend the authority’s policy on development contributions or financial contributions so that the period to which it applies ends on the date on which the authority’s long-term plan that relates to the period from 1 July 2025 to 30 June 2034 comes into force; and 5
- (f) the requirements relating to the authority’s annual plan for the 2024/25 financial year remain in force (*see* section 95 and Part 2 of Schedule 10); and 10
- (g) the authority’s annual plan for the 2024/25 financial year must also include the additional information specified in **clauses 50 to 52**; and
- (h) the authority must consult on its annual plan for the 2024/2025 financial year in accordance with **clause 53**.
- (2) **Subclause (1)(a)** applies despite section 93(7)(a). 15
- (3) **Subclause (1)(c)** applies despite section 93(3).
- (4) **Subclause (1)(d)** applies despite section 93(3) and (7)(a).
- 50 Additional information to be included in annual plan: groups of activities**
- (1) For the purposes of **clause 49(1)(g)**, an authority’s annual plan must, in relation to each group of activities of the authority,— 20
- (a) identify the activities within the group of activities:
- (b) identify the rationale for delivery of the group of activities (including the community outcomes to which the group of activities primarily contributes):
- (c) outline any significant negative effects that any activity within the group of activities may have on the social, economic, environmental, or cultural well-being of the local community: 25
- (d) in relation to the financial year covered by the plan, include the information specified in clauses 4(a), (b), (c), and (e), and 5 of Schedule 10 in detail. 30
- (2) For the purpose of **subclause (1)**, each of the following activities is a group of activities:
- (a) water supply:
- (b) sewerage and the treatment and disposal of sewage:
- (c) stormwater drainage: 35
- (d) flood protection and control works:
- (e) the provision of roads and footpaths.

**Local Government Act 2002 (2002 No 84)—continued**

- (3) An authority may treat any other activities as a group of activities.
- (4) **Subclause (3)** applies despite **subclause (2)**.
- 51 Additional information to be included in annual plan: capital expenditure**
- (1) For the purposes of **clause 49(1)(g)**, an authority's annual plan must, in relation to each group of activities of the authority and for the financial year covered by the plan, include a statement of the amount of capital expenditure that the authority has budgeted to—
- (a) meet additional demand for an activity; and
- (b) improve the level of service; and
- (c) replace existing assets.
- (2) For the purpose of **subclause (1)**, capital expenditure budgeted for 2 or all of the purposes in **subclause (1)** may be treated as if it were made solely in relation to the primary purpose of the expenditure.
- 52 Additional information to be included in annual plan: resolution not to balance operating budget**
- For the purposes of **clause 49(1)(g)**, if the authority has resolved, under section 100(2), not to balance its operating budget in the year covered by the annual plan, the annual plan must include—
- (a) a statement of the reasons for the resolution and any other matters taken into account; and
- (b) a statement of the implications of the decision.
- 53 Consultation on annual plan if authority defers adopting long-term plan**
- If an authority defers adopting its 2024–2034 long-term plan in accordance with **clause 48(1)**,—
- (a) the authority must consult in a manner that gives effect to the requirements of section 82 before adopting the annual plan for the 2024/25 financial year; and
- (b) section 95(2A) does not apply.
- Bylaws*
- 54 Review of water services bylaws under section 158 or 159 may be deferred**
- (1) An authority may decide to defer a review required by section 158(1) or (2) or 159 if all the following requirements are met:
- (a) the review relates only to a water services bylaw:

**Local Government Act 2002 (2002 No 84)**—*continued*

- (b) for the water services bylaw, the 5-year period in section 158(1) or (2)(b) or, as the case requires, the 10-year period in section 159 ends in the period between 15 December 2022 and 30 June 2024:
- (c) the authority makes the decision in the bylaw transition period:
- (d) the authority gives prompt public notice of the deferral: 5
- (e) that public notice identifies clearly the water services bylaw.
- (2) A deferral under **subclause (1)** has the results specified in **subclauses (3) to (5)**.
- (3) The review is required only if the water services bylaw is not revoked in the bylaw transition period. 10
- (4) The review, if required, is required no later than 1 July 2026.
- (5) For the purposes of section 160A, the last date on which the water services bylaw should have been reviewed under section 158 or 159 must be taken to be 1 July 2026.
- (6) **Subclauses (2) to (5)** apply despite sections 158, 159, and 160A. 15
- (7) In this clause,—
- bylaw**, without limiting the generality of that term as defined in section 5(1), includes—
- (a) a set of bylaws; and
- (b) an individual bylaw in a set of bylaws; and 20
- (c) a provision within an individual bylaw
- bylaw transition period** means the period—
- (a) starting on 15 December 2022; and
- (b) ending on 31 December 2025
- water services bylaw** means a bylaw that relates to all or any of the following: 25
- (a) water supply:
- (b) wastewater:
- (c) stormwater.
- In Schedule 3, clause 7(2)(a), delete “(which must include any connections with, and any potential implications for, a relevant water services entity and the application of the Water Services Entities Act 2022)”. 30
- In Schedule 3, replace clause 7(4)(a) with:
- (a) consult affected local authorities on the proposed process or amendment; and
- In Schedule 3, repeal clause 7(6)(c)(iii). 35
- In Schedule 3, repeal clause 10(j).

**Local Government Act 2002 (2002 No 84)—continued**

In Schedule 3, repeal clause 12(2)(g), (5), and (6).

In Schedule 3, repeal clause 14(2)(c)(ix), (3)(ga), and (4A).

**Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 (2010 No 119)**

After section 18(7), insert:

- |      |  |    |
|------|--|----|
| (8)  | <b>Subsection (9)</b> applies to a person carrying out functions or exercising powers under an enactment specified in <b>subsection (10)</b> if the functions or powers relate to—   | 5  |
| (a)  | the Waikato River; or  |    |
| (b)  | activities in the catchment that affect the Waikato River.   | 10 |
| (9)  | Except as otherwise expressly provided in this Act, the person must have particular regard to the vision and strategy in addition to any requirement specified in the enactment for carrying out the functions or exercising the powers. |    |
| (10) | The enactments are—  |    |
| (a)  | the Taumata Arowai—the Water Services Regulator Act 2020; and  | 15 |
| (b)  | the Water Services Act 2021.   |    |

**Resource Management Act 1991 (1991 No 69)**

After section 104(2D), insert:

- |      |  |    |
|------|--|----|
| (2E) | When considering a resource consent application that relates to a stormwater network, as defined in section 5 of the Water Services Act 2021, a consent authority—                     | 20 |
| (a)  | must not grant the consent contrary to a stormwater environmental performance standard made under section 139A of that Act; and  |    |
| (b)  | must include, as a condition of granting the consent, requirements that are no less restrictive than is necessary to give effect to the stormwater environmental performance standard. | 25 |

After section 108AA(1)(b)(iii), insert:

- |      |  |
|------|--|
| (iv) | a stormwater environmental performance standard made under section 139A of the Water Services Act 2021; or |
|------|--|

**Search and Surveillance Act 2012 (2012 No 24)**

30

In the Schedule, after the item relating to section 110 of the Water Services Act 2021, insert:

- |     |   |   |
|-----|---|---|
| 111 | Compliance officer may enter and inspect place and may exercise powers under section 107 of the Water Services Act 2021 for purposes of section 103(a) to (e) of that Act | All (other than subparts 2, 3, 6, and 8 and sections 118 and 119) |
|-----|---|---|

**Search and Surveillance Act 2012 (2012 No 24)—continued**

In the Schedule, after the item relating to section 112 of the Water Services Act 2021, insert:

114	Specified person may enter and search place, vehicle, or other thing to ascertain whether person has engaged in or is engaging in conduct that contravenes legislative requirement or drinking water safety plan	All (except sections 118 and 119)
116	Conditions of entry, search, and seizure	Section 110(e)

**Taumata Arowai—the Water Services Regulator Act 2020 (2020 No 52)**

In section 4, replace the definition of **stormwater network** with:

<b>stormwater network—</b>	5
(a) means the infrastructure and processes that—	
(i) are used to collect, treat, drain, store, reuse, or discharge stormwater in an urban area; and	
(ii) are operated by, for, or on behalf of one of the following:	
(A) a local authority, council-controlled organisation, or subsidiary of a council-controlled organisation:	10
(B) a department:	
(C) the New Zealand Defence Force; and	
(b) includes—	
(i) an overland flow path:	15
(ii) green water services infrastructure that delivers stormwater services:	
(iii) watercourses that are part of, or related to, the infrastructure described in <b>paragraph (a)(i)</b>	

In section 4, definition of **stormwater network operator**, paragraph (a), replace “, to the extent that they operate a stormwater network or supervise its operation or aspects of its operation” with “entities (to the extent that a stormwater network is operated, or its operation or aspects of its operation are supervised, by, for, or on behalf of the entity)”.

In section 4, definition of **wastewater network operator**, paragraph (a), replace “, to the extent that they operate a wastewater network or supervise its operation or aspects of its operation” with “entities (to the extent that a wastewater network is operated, or its operation or aspects of its operation are supervised, by, for, or on behalf of the entity)”.

In section 4, insert in their appropriate alphabetical order:

**Taumata Arowai—the Water Services Regulator Act 2020 (2020 No 52)**—*continued***green water services infrastructure**—

(a) means a natural or semi-natural area, feature, or process that mimics natural areas, features, or processes that are planned or managed to provide water services; and

(b) includes an engineered system that is an area, feature, or process that complies with **paragraph (a)** 5

**overland flow path** means any flow path taken by stormwater on the surface of land

**water services** means services relating to water supply, wastewater, and stormwater 10

**watercourse** means a watercourse that is part of, or related to, the drainage or discharge of stormwater in an urban area

**Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7)**

In Schedule 2, after clause 1(u), insert:

(ua) Taumata Arowai—the Water Services Regulator Act 2020: 15

In Schedule 2, after clause (1)(w), insert:

(wa) Water Services Act 2021:

**Urban Development Act 2020 (2020 No 42)**

In section 9, insert in their appropriate alphabetical order:

**stormwater network** has the same meaning as in section 5 of the Water Services Act 2021 20

**wastewater network** has the same meaning as in section 5 of the Water Services Act 2021

In section 142(1), replace the definition of **water-related infrastructure** with:

**water-related infrastructure** means infrastructure associated with, or necessary for, any of the following: 25

(a) three waters services:

(b) the supply of water through water races:

(c) drainage and rivers clearance

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)** 30

After section 17(7), insert:

(8) **Subsection (9)** applies to a person carrying out functions or exercising powers under an enactment specified in **subsection (10)** if the functions or powers relate to— 35

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)**—*continued*

- (a) the Waikato River; or
  - (b) activities in the catchment that affect the Waikato River.
- (9) Except as otherwise expressly provided in this Act, the person must have particular regard to the vision and strategy in addition to any requirement specified in the enactment for carrying out the functions or exercising the powers. 5
- (10) The enactments are—
- (a) the Taumata Arowai—the Water Services Regulator Act 2020; and
  - (b) the Water Services Act 2021.

**Water Services Act 2021 (2021 No 36)**

In section 5, replace the definition of **stormwater network** with: 10

**stormwater network**—

- (a) means the infrastructure and processes that—
  - (i) are used to collect, treat, drain, store, reuse, or discharge stormwater in an urban area; and
  - (ii) are owned or operated by, for, or on behalf of one of the following: 15
    - (A) a local authority, council-controlled organisation, or subsidiary of a council-controlled organisation:
    - (B) a department:
    - (C) the New Zealand Defence Force; and 20
- (b) includes—
  - (i) an overland flow path:
  - (ii) green water services infrastructure that delivers stormwater services: 25
  - (iii) watercourses that are part of, or related to, the infrastructure described in **paragraph (a)** 25

In section 5, definition of **stormwater network operator**, paragraph (a), replace “, to the extent that they operate a stormwater network or supervise its operation or aspects of its operation” with “entities (to the extent that a stormwater network is operated, or its operation or aspects of its operation are supervised, by, for, or on behalf of the entity)”. 30

In section 5, definition of **wastewater network operator**, paragraph (a), replace “, to the extent that they operate a wastewater network or supervise its operation or aspects of its operation” with “entities (to the extent that a wastewater network is operated, or its operation or aspects of its operation are supervised, by, for, or on behalf of the entity)”. 35

**Water Services Act 2021 (2021 No 36)—continued**

In section 5, insert in their appropriate alphabetical order:

**green water services infrastructure—**

(a) means a natural or semi-natural area, feature, or process that mimics natural areas, features, or processes that are planned or managed to provide water services; and 5

(b) includes an engineered system that is an area, feature, or process that complies with **paragraph (a)**

**marae** includes the area of land on which all buildings such as wharenui, wharekai, wharepaku, papakāinga, and any other associated buildings are situated

**overland flow path** means any flow path taken by stormwater on the surface of land 10

**trade waste** means any waste that is—

(a) produced for an industrial or a trade purpose, or a related purpose; and

(b) discharged into a wastewater network

**water services** means services relating to water supply, wastewater, and storm-water 15

**watercourse** means a watercourse that is part of, or related to, the drainage or discharge of stormwater in an urban area

Replace section 14(1) with:

(1) In this Act, **Te Mana o te Wai**— 20

(a) has the meaning set out in the National Policy Statement for Freshwater Management issued in 2020 under section 52 of the Resource Management Act 1991 and any statement issued under that section that amends or replaces the 2020 statement; and

(b) applies, for the purposes of this Act, to water (as that term is defined in section 5 of this Act). 25

Repeal section 25(9).

Replace section 35A with:

**35A Notice to warn users of domestic self-supply about contamination**

(1) This section applies if a medical officer of health or Taumata Arowai believes that a source of water for domestic self-supply is contaminated in a way that affects, or is likely to affect, that domestic self-supply. 30

(2) The medical officer of health or Taumata Arowai may issue a notice to any local authority, council-controlled organisation, or subsidiary of a council-controlled organisation that is responsible for the area to which water is supplied from that source. 35

**Water Services Act 2021 (2021 No 36)—continued**

- (3) A local authority, council-controlled organisation, or subsidiary of a council-controlled organisation that receives a notice under **subsection (2)** must—
- (a) ensure that an assessment is made as to whether any domestic self-supply is abstracting or otherwise receiving unsafe water from the source specified in the notice; and 5
  - (b) if that assessment so requires, take all practicable steps—
    - (i) to warn users of that supply—
      - (A) that drinking water must not be used for domestic use and food preparation; or
      - (B) that drinking water may only be used for domestic use and food preparation if certain steps are first taken (for example, boiling the water); and 10
    - (ii) to exercise any other power or take any action to remedy the situation.

In Part 2, in the subpart 4 heading, replace “information” with “complaints”. 15

In the heading to section 38, after “**provide information to consumers**”, insert “**and have complaints process**”.

After section 38(1)(a), insert:

- (b) establish, maintain, and administer a consumer complaints process; and
- (c) report annually to Taumata Arowai on its consumer complaints process. 20

After section 38(1), insert:

- (2) A drinking water supplier must ensure that complaints are dealt with—
- (a) in accordance with its consumer complaints process; and
  - (b) in an efficient and effective manner. 25

After section 38, insert:

**39 Review by Taumata Arowai**

- (1) A drinking water consumer who is not satisfied with the outcome of a complaint under this subpart may, in the approved form, request Taumata Arowai to review the complaint.
- (2) Taumata Arowai must— 30
- (a) investigate the drinking water supplier’s handling of the complaint; and
  - (b) take any action that Taumata Arowai considers necessary as a result of Taumata Arowai’s investigation findings.
- (3) Taumata Arowai may appoint a person to provide a dispute resolution process on its behalf for the purposes of **subsection (2)**. 35

**Water Services Act 2021 (2021 No 36)—continued**

- (4) Taumata Arowai may, at its discretion, decide to take no action or, as the case may require, no further action on any complaint if, in the opinion of Taumata Arowai,—
- (a) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made is such that an investigation of the complaint is no longer practicable or desirable; or 5
  - (b) the complaint is trivial, frivolous, or vexatious or is not made in good faith; or
  - (c) the person alleged to be aggrieved does not want action to be taken or, as the case may be, continued; or 10
  - (d) the complainant does not have sufficient personal interest in the subject matter of the complaint; or
  - (e) there is in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representatives or to make a complaint to an Ombudsman, that it would be reasonable for the aggrieved person to exercise. 15

**40 Taumata Arowai to monitor compliance with complaints process**

Taumata Arowai must—

- (a) monitor compliance with this subpart; and 20
- (b) have regard to the scale, complexity, and risk profile of a drinking water supplier when performing the functions in this subpart.

In section 57(1)(i), after “provide information to consumers”, insert “and have a consumer complaints process”.

In section 140, definition of **drinking water network**, replace “or whose operation or aspects of whose operation is” with “for, or on behalf of, or whose operation or aspects of whose operation are”. 25

In section 140, definition of **drinking water network operator**, paragraph (a), replace “, to the extent that they operate a drinking water network or supervise its operation or aspects of its operation” with “entities (to the extent that a drinking water network is operated, or its operation or aspects of its operation are supervised, by, for, or on behalf of the entity)”. 30

After section 146(1)(c), insert:

- (d) for stormwater network operators, stormwater environmental performance standards. 35

In section 148(1), replace “141” with “147”.

In section 148(2), replace “141” with “137”.

In section 165(1), replace the item relating to section 188 with:

**Water Services Act 2021 (2021 No 36)—continued**

188 Failure to advise consumers about, provide, and report on complaint process

In section 169(1), replace the item relating to section 188 with:

188 Failure to advise consumers about, provide, and report on complaint process

In the cross-heading above section 188, replace “*information*” with “*complaints*”.

Replace the heading to section 188 with “**Offence involving failure to advise consumers about, provide, and report on complaint process**”.

After section 188(1)(a)(i), insert:

- (ii) to comply with the duty under **section 38(1)(b)** to establish, maintain, and administer a consumer complaints process; or
- (iii) to comply with the duty under **section 38(1)(c)** to report annually to Taumata Arowai on its consumer complaints process; or

After section 188(1)(a), insert:

- (b) to comply with the duty under **section 38(2)** relating to consumer complaints.

After section 200(1)(a)(ii), insert:

- (iii) how a consumer may make a complaint to a drinking water supplier; and

After section 200(1)(a), insert:

- (b) prescribing requirements relating to consumer complaints that drinking water suppliers, or classes of drinking water supplier, must meet, including requirements for—
  - (i) investigating consumer complaints; and
  - (ii) the time frame for making decisions on consumer complaints; and
  - (iii) notifying decisions on complaints, including any action that was taken to resolve the matters that gave rise to the complaint; and
  - (iv) records that drinking water suppliers must keep about consumer complaints:
- (c) prescribing requirements for annual reporting about consumer complaints to Taumata Arowai by drinking water suppliers, or classes of drinking water supplier, including—
  - (i) the number of complaints that have been received; and
  - (ii) the outcome of complaints, including any action taken:

Repeal section 201(2A) and (2B).

Repeal Part 5.

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## Part 2

### Consequential amendments to secondary legislation

#### **Local Government (Financial Reporting and Prudence) Regulations 2014 (LI 2014/76)**

In Schedule 1, revoke Part 2. 5

In Schedule 4, revoke Note 3(3).

In Schedule 5, before the heading “**Essential services benchmark**”, delete “However, the balanced budget benchmark (*see* regulation 19) is subject to clause 6 of Schedule 1 (which relates to the transfer of assets, liabilities, or other matters from a local authority to a water services entity).” 10

In Schedule 6, before the heading “**Essential services benchmark**”, delete “However, the balanced budget benchmark (*see* regulation 19) is subject to clause 6 of Schedule 1 (which relates to the transfer of assets, liabilities, or other matters from a local authority to a water services entity).”

**Schedule 3**  
**Local Acts repealed**

**s 11**

Eltham Borough Drainage and Water-supply Empowering Act 1905 (1905 No 4 (L))	
Hauraki Plains County Council Empowering (Kerepehi Sewerage Works) Act 1975 (1975 No 13 (L))	5
Hauraki Plains County Eastern Water-supply Empowering Act 1935 (1935 No 3 (L))	
Hawera Borough Drainage Empowering Act 1900 (1900 No 21 (L))	
Onerahi Water Reserve Enabling Act 1928 (1928 No 9 (L))	
Paeroa Borough Water-supply Empowering Act 1947 (1947 No 5 (L))	10
Thames Water Supply Transfer Act 1880 (1880 No 7 (L))	