



Legislative Statement | Water Services Bill

This legislative statement supports first reading of the Water Services Bill, which proposes comprehensive reform of drinking water regulation alongside targeted changes to wastewater and stormwater regulation.

It is an omnibus bill that will revoke Part 2A of the Health Act 1956 and replace it with a stand-alone Act. The Bill also proposes changes to the Local Government Act 2002 and Resource Management Act 1991 in the area of drinking water regulation.

Reform of drinking water, wastewater and stormwater

The Havelock North drinking water contamination event in 2016 drew the nation's attention to the gravity of the drinking water situation in New Zealand. Around 5000 people became ill, with up to four deaths associated with the event. The economic costs have been estimated at \$21 million. The subsequent Government Inquiry found the contamination was a result of systemic failure across service provision, regulation and source protection – all aspects of the system were implicated.

Even if the Havelock North contamination had not occurred, there is still a very strong case for change to the drinking water regulatory system. Every year, around 34,000 people across New Zealand become ill from their drinking water and many thousands of households must boil their water to drink it safely. The regulatory system is fragmented and weak, and many suppliers are effectively not regulated at all, including some schools, campgrounds, tourist facilities, university facilities, hospitals, and defence properties.

It has also become clear that the regulatory system for wastewater and stormwater does not deliver environmental outcomes that are acceptable to communities or Māori.

Combined with independent regulation through Taumata Arowai (the Water Services Regulator, which is currently being established as an independent Crown entity), the Water Services Bill proposes a step change in drinking water regulation of the kind envisaged by the Havelock North Inquiry. It also proposes targeted changes to wastewater and stormwater regulation, to enable Taumata Arowai to shine a light on the environmental performance of these networks, along with compliance with basic regulatory standards.

New drinking water regulatory arrangements

Drinking water suppliers

The framework in the Bill enshrines the essential principle articulated by the Havelock North Inquiry that suppliers must own the safety of drinking water. It does so by imposing clear, specific requirements on all drinking water suppliers other than domestic self-suppliers, to:

- provide safe drinking water and meet drinking water standards, with clear obligations to act when drinking water is not safe or fails to meet standards;

- ensure that there is a sufficient quantity of drinking water to support the ordinary needs of consumers, with clear obligations to act where supply is interrupted or restricted for any reason;
- register drinking water supplies with Taumata Arowai, and keep essential registration details updated each year;
- have a drinking water safety plan¹ that contains a multi-barrier approach to drinking water safety, implement the plan, and review it on a regular basis to reflect any changes to risks or hazards; and
- notify Taumata Arowai and take action where there are risks to public health arising from drinking water, breaches of drinking water standards, or other significant risk events.

Source water risk management

The Bill proposes new arrangements relating to sources of drinking water. These new arrangements are based on a preventive risk management approach, alongside open flows of information between local authorities, drinking water suppliers, and Taumata Arowai.

The National Environmental Standard for Sources of Human Drinking Water is also being reformed in line with recommendations by the Havelock North Inquiry. The reform process is being staged for implementation on a similar timeframe to the Water Services Bill.

Approach based on scale, complexity, and risk profile

The Water Services Bill requires many aspects of drinking water regulation to be proportionate to the scale, complexity and risk profile of a supply. This requirement is enshrined in the purpose clause of the Bill. Alongside this, drinking water safety plans, source water risk management plans, and consumer complaints processes must all be proportionate to the scale, risk, and complexity of supplies.

The Bill provides a toolkit to Taumata Arowai to enable it to support suppliers in fulfilling their obligations, including templates, models, and acceptable solutions and verification methods that are based on, and designed to be a good regulatory fit with, Building Act 2004 requirements.

Compliance and enforcement

Compliance and enforcement were areas of significant focus for the Havelock North Inquiry. Taumata Arowai will have a broad toolkit for ensuring compliance and enforcement with the new drinking water regulatory framework. Along with powers carried over from the existing regulatory regime, new powers have been developed to ensure that a graduated response can be taken to non-compliance. These powers are vested in the chief executive of Taumata Arowai and its compliance officers to ensure they are exercised independently.

¹ Drinking water safety plans are the internationally accepted mechanism for taking a risk-based approach to drinking water.

The Bill requires Taumata Arowai to publish a compliance, monitoring, and enforcement strategy to provide transparency about how Taumata Arowai intends to target its compliance, monitoring, and enforcement activities and support drinking water suppliers of different types, sizes, and abilities.

Exemptions

The Bill contains two significant exemption powers. There is a general exemption to enable drinking water supplies to be exempted from the new regime. Back country huts and isolated campsites are examples of the types of supply a general exemption is designed to cover, where it would not be practical for the supplies to comply with the new regime.

There is also a residual disinfection exemption power that enables drinking water supplies to be exempted from chlorination. This will allow a supplier to adopt treatment methods other than chlorination to make drinking water safe. However, consistent with the recommendations of the Havelock North Inquiry, the chief executive of Taumata Arowai may require a supplier to demonstrate that the drinking water will be safe and comply with regulatory requirements on an ongoing basis to obtain an exemption.

Authorisations and occupational regulation

The Bill contains a framework to enable authorisations and occupational regulation of drinking water suppliers. This area is new and is designed to lift the professional capability of suppliers. Following review by the government, this area was also identified as a long-term weakness in existing arrangements.

Consumer complaints

The Bill contains a consumer complaints framework. This area is new and is designed ensure that consumer concerns about drinking water are properly investigated by suppliers, with action taken where necessary.

Wastewater and stormwater measures

The Bill contains new national-level reporting, monitoring, and advisory functions for wastewater and stormwater. These new functions will be carried out by Taumata Arowai, enabling it to shine a light of the environmental performance of these networks and their compliance with core requirements such as resource consent conditions. Wastewater and stormwater operators will have to report against measures annually in a national report. Taumata Arowai will also be empowered to identify and promote national good practice for the design and management of wastewater and stormwater networks.

Te Mana o te Wai

The Bill requires all persons who perform or exercise functions, powers, and duties under the legislation to give effect to Te Mana o te Wai. This parallels requirements imposed on local authorities under the National Policy Statement for Freshwater Management, and on Taumata Arowai under its enabling legislation.

As part of its governance arrangements, Taumata Arowai will have a Māori Advisory Group that is charged with advising on how to interpret and give effect to Te Mana o te Wai, and on how to enable mātauranga Māori, tikanga Māori, and kaitiakitanga to be exercised.

Transitional arrangements

The Bill contains transitional provisions that focus in the first year on larger, municipal suppliers. The core requirements are that:

- by the end of the first year, all drinking water supplies serving populations of 500 or more will be required to have a drinking water safety plan that complies with the Bill. Suppliers serving populations of less than 500 have five years to comply;
- all supplies registered under the existing drinking water register will be transferred to the new drinking water register. Suppliers will one year following commencement to register if they own an unregistered supply, or to update their details to comply with new registration requirements.

In preparation for assuming its regulatory responsibilities, the establishment unit for Taumata Arowai has begun identifying suppliers that will require additional support as the legislation comes into force. This includes many small suppliers such as marae and rural suppliers. It is important for small suppliers to make submissions during the select committee stage, to best understand the challenges these suppliers face, and ensure the measures in the Bill are properly tailored to them.

The Government does not intend to bring the provisions in the Bill relating to wastewater and stormwater into force until 2 years following Royal assent, to allow Taumata Arowai to prioritise drinking water regulation.