



20 September 2021

## WATER SERVICES BILL | LEGISLATIVE STATEMENT

Presented to the House of Representatives under Standing Order 272

J.17

This legislative statement supports second reading of the Water Services Bill (the Bill), which proposes comprehensive reform of drinking water regulation alongside targeted reforms to improve the regulation and performance of wastewater and stormwater networks.

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.

### 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 plan 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. Source water recognises a wide range of water sources including rainwater, and water bodies other than freshwater sources to future-proof for new technologies and practices.

### *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. The Bill provides a toolkit to Taumata Arowai to enable it to support suppliers in fulfilling their obligations, including templates, models, and drinking water acceptable solutions and verification methods that are based on, and designed to be a good regulatory fit with the Building Act 2004 requirements. These arrangements are particularly tailored toward small and rural drinking suppliers as a means for them to reach compliance rather than having to comply with the full regulatory regime.

### *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.

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 for drinking water suppliers*

The Bill contains three key exemption powers: general exemptions to enable a drinking water supplier or class of drinking water supplier to be exempted from the new regime; exemptions from the requirement to use residual disinfection; and exemptions during a drinking water emergency. Class exemptions for residual disinfection were recommended by the Health Committee.

Taumata Arowai is required to consult on class exemptions, give reasons for exemptions, and publish exemptions. Exemptions will expire after 5 years unless they expire or are revoked or replaced before then.

### **Wastewater and stormwater**

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 on the performance of these networks. Taumata Arowai will also be empowered to identify and promote national best 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**

Schedule 1 sets out the Bill's transitional provisions. Supplies registered under the existing Health Act 1956 regime will be registered under the Water Services Act when it commences and will need to comply with the requirements of the legislation by the end of the first year following commencement.

Water carriers, identified as inherently risky, will be required to comply with the regime by the end of the first year following commencement.

Suppliers that are not currently registered under the Health Act 1956 will be required to register with Taumata Arowai by the end of the third year following commencement and comply with the requirements of the legislation by the end of the fifth year following commencement.

### **Supplementary Order Paper**

The Minister responsible for the Bill has tabled a supplementary order paper to the Bill which will be debated when the Bill is considered by the committee of the whole House.

This supplementary order paper proposes to extend the timeframe for drinking water suppliers who are not currently registered under the Health Act 1956 to come into the regime. Registration for these suppliers will be extended from 3 years to 4 years following commencement; and compliance with all requirements will be extended from 5 years to 7 years following commencement.

The supplementary order paper also proposes to expand the national-level monitoring and reporting role for Taumata Arowai in relation to wastewater and stormwater networks. Taumata Arowai will have power to make wastewater environmental performance standards, which will apply to publicly owned wastewater networks. The supplementary order paper also clarifies that Taumata Arowai's oversight powers for wastewater networks extend to trade waste. Publicly owned wastewater networks will be required to have a risk management plan.

The supplementary order paper proposes to give Taumata Arowai powers to set targets for publicly owned three waters infrastructure, which network operators will have to report against. Finally, the supplementary order paper extends Taumata Arowai's environmental performance powers in the Bill to publicly owned drinking water networks, giving it the ability to report at a national level on the environmental performance of all three waters infrastructure.