

**Version
as at 24 August 2023**



Infrastructure Funding and Financing Act 2020

Public Act 2020 No 47
Date of assent 6 August 2020
Commencement see section 2

Contents

	Page
1 Title	7
2 Commencement	8
Part 1	
Preliminary provisions	
3 Purpose	8
4 Outline of this Act	8
5 Transitional, savings, and related provisions	8
6 Act binds the Crown	9
<i>Interpretation</i>	
7 Interpretation	9
8 Meaning of eligible infrastructure	12
9 Meaning of eligible costs	13
10 What is an SPV	15
<i>Protected Māori land</i>	
11 Meaning of protected Māori land	15
12 Te Ture Whenua Maori Act 1993 not affected by this Act	18

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Housing and Urban Development.

13	Marine and Coastal Area (Takutai Moana) Act 2011 not affected by this Act	18
14	Treaty settlement obligations prevail	18
	<i>Application of Local Government (Rating) Act 2002</i>	
15	How Local Government (Rating) Act 2002 applies to this Act	18
	Part 2	
	Authorisation of levy	
16	Outline of this Part	19
	Subpart 1—Consideration of levy proposal	
	<i>Levy proposal</i>	
17	Who may propose levy	19
18	Content of levy proposal	19
	<i>Levy proposal assessed by recommender</i>	
19	Recommender assesses levy proposal	20
20	Infrastructure endorsement	20
21	Levy endorsement	21
22	Authorities not restricted by endorsement	21
23	Endorsements notified	21
24	Consent to include protected Māori land	22
25	Recommendation	22
26	Recommendation report	22
	<i>Responsible Minister's consideration of levy proposal</i>	
27	Responsible Minister may recommend levy order to Governor-General in Council	23
28	Consultation	24
	Subpart 2—Levy order	
29	Order in Council	24
30	Monitor publishes recommender's report	24
31	Content of levy order	24
32	Setting levy: leviable land	25
33	Setting levy: factors to be used in assessing liability	26
34	Additional content of levy order	26
	Subpart 3—Basis of liability for levy	
	<i>Preliminary</i>	
35	Application	27
36	Leviable land	27
37	Who must pay levy	27
38	When levy payment must be made	28
39	Levy period	28

	<i>Responsible SPV sets annual levy</i>	
40	Annual levy	28
41	Rating information needed by SPV	29
	<i>Confirmation of annual levy</i>	
42	Proposed annual levy resolution	29
43	Monitor reviews proposed resolution and report	29
44	Monitor confirms proposed resolution	29
45	Responsible SPV sets annual levy	30
46	Monitor publishes resolution	30
47	Monitor not satisfied	30
48	Revised proposed annual levy resolution	30
49	Monitor directs resolution	30
50	Responsible SPV sets annual levy as directed	31
	<i>Correcting annual levy</i>	
51	Responsible SPV may correct annual levy resolution	31
	<i>Maximum levy revenue can be reduced</i>	
52	Maximum levy revenue can be reduced	32
	Part 3	
	Administration of levy	
53	Outline of this Part	32
	Subpart 1—Who administers levy	
54	Who administers levy	32
55	Levy administration agreement	33
56	When agreement not reached	33
57	When SPV recovers unpaid levy	33
58	Levy is charge against rating unit	33
59	Invalidity of levy not ground for refusal to pay levy	34
	Subpart 2—Responsible levy authority administers levy	
	<i>Levy proceeds paid to responsible SPV</i>	
60	Collected levy paid to responsible SPV	34
	<i>Rating information database and rating records</i>	
61	Rating information database	34
62	Objections by levypayers	35
63	Responsible SPV to give levy-related information to responsible levy authority	35
64	Notification of change in circumstances	36
65	Rates records and objections, etc, to rates records	36
66	Correction of errors	37
67	Amended levy assessment and recovery of additional levy	37

	<i>Levy assessment and invoicing</i>	
68	Assessment of levy liability	37
69	When responsible levy authority must treat 2 or more rating units as 1 unit for assessing levy	38
70	Levy assessment notified to levypayer	38
71	Information in levy assessment	38
72	Levy invoice	39
73	Further processes for levy assessment and levy invoice	39
	<i>Collection of levy</i>	
74	Collection of levy	39
	<i>Penalties</i>	
75	Penalties for unpaid levy	40
	<i>Remission and postponement of levy</i>	
76	Levy remission and levy postponement policies	40
77	Levy remission and levy postponement policies relating to Maori freehold land	40
78	Remission of levy	41
79	Postponement of requirement to pay levy	41
	<i>Write-off of levy</i>	
79A	Write-off of levy	42
	<i>Recovery of unpaid levy</i>	
80	Recovery under Local Government (Rating) Act 2002	42
81	Recovery action in relation to Maori freehold land	43
	Subpart 3—When responsible SPV recovers unpaid levy	
82	Recovery action generally	43
83	Legal proceedings to recover levy	44
84	Application of proceeds of rating sale or lease that involves levy	44
85	Recovery action in relation to Māori freehold land	44
86	Responsible levy authority must give information to responsible SPV	45
	Part 4	
	Other operational and financial matters	
87	Outline of this Part	45
	Subpart 1—SPV’s ongoing duties	
88	Levy collected must not exceed maximum levy revenue	45
89	Levy revenue must be applied only to pay eligible costs	45
90	Eligible infrastructure vested in responsible infrastructure authority	45

	Subpart 2—Excess levy, uncollected levy, and previous contributions	
	<i>Excess levy at end of levy period</i>	
91	Excess levy at end of levy period	46
92	Excess levy threshold	46
	<i>Uncollected levy at end of levy period</i>	
93	Responsible SPV may assign uncollected levy to responsible levy authority	47
	<i>Previous development contributions and environmental contributions</i>	
94	Application and interpretation	47
95	Responsible levy authority to inform responsible SPV about previous contributions	48
96	Responsible SPV may direct responsible levy authority to transfer previous contributions and remit levies	48
97	Responsible levy authority must refund or return previous contributions if no direction	49
98	Sections 209 and 210 of Local Government Act 2002 do not apply to those previous contributions	49
	Subpart 3—SPV’s powers relating to construction	
	<i>Powers relating to private land</i>	
99	Power to construct eligible infrastructure on private land	49
	<i>Powers relating to roads and public land</i>	
100	Powers to construct water services infrastructure on roads and public land	49
101	Notice requirement	50
102	Responsible SPV to be notified of conditions	50
103	Failure to notify conditions	50
104	Urgency	50
105	Appeal by responsible SPV to District Court	51
	Subpart 4—Other financial matters	
	<i>Accounting records and reporting</i>	
106	Definitions	51
107	Levy account	51
108	Accounting records	52
109	Financial statements	52
110	Audit	52
111	Annual report	52
112	Content of annual report	52
113	Additional information required by monitor	53

	<i>Limitations on support given to SPV</i>	
114	Support from responsible levy authority or responsible infrastructure authority	53
115	Crown liability generally	54
116	Crown liability under certain contracts and arrangements	54
	Part 5	
	Monitoring, remedies, enforcement, and miscellaneous	
117	Outline	55
	Subpart 1—Role of monitor	
118	Appointment of monitor	55
119	Functions, duties, and powers	55
120	Monitor must publish information	56
121	Information and assistance	56
122	Restricted change of control of SPV	56
123	Inquiry into SPV’s operations	57
124	Monitor may give direction or request remedial plan	57
125	Monitor may recommend appointment of Crown Manager	57
	Subpart 2—Role of Crown Manager	
126	Responsible Minister may appoint Crown Manager	58
127	Functions, duties, and powers of Crown Manager	58
128	Information to responsible Minister and monitor	59
129	Termination of appointment	59
130	Protection from liability	59
131	Costs of Crown Manager	59
132	Remuneration and expenses of Crown Manager	59
	Subpart 3—Modified rights and remedies for creditors	
133	General law applies with some modifications	60
	<i>Modification of Receiverships Act 1993 for SPVs</i>	
134	Application of Receiverships Act 1993	60
135	Receiver appointed under instrument	60
136	Receiver appointed by court	60
137	Powers of receiver	61
138	General duties of receiver	61
139	Constraints on receiver	61
140	Protection of receiver	62
141	Exception in relation to Crown Manager	63
	<i>Limit on usual rules for creditors</i>	
142	Limit on usual rules for transactions and dispositions at under value	63

Subpart 4—Enforcement		
<i>Injunctions and compliance orders</i>		
143	Court may grant injunction	63
144	When court may grant injunction	64
145	No undertaking as to damages required	64
146	Court may make compliance order	64
<i>Civil liability and compensatory orders</i>		
147	Court may make civil liability order	65
148	Court may make compensatory order	65
149	Defences	65
150	Defences for person involved in contravention	66
151	Meaning of involved in a contravention	66
<i>Offences</i>		
152	False statement or information	66
153	Refusal or failure to give information	67
154	Resistance, obstruction, or failure to comply with directions	67
Subpart 5—Miscellaneous		
<i>Recommender</i>		
155	Appointment of recommender	67
156	Function of recommender	68
<i>Delegations</i>		
157	Responsible levy authority may delegate	68
158	Responsible SPV may delegate	68
159	Other provisions of Local Government (Rating) Act 2002 applied	68
<i>Courts</i>		
160	Jurisdiction of courts	69
Subpart 6—Amendments to other Acts		
161	Amendments to other Acts	69
Schedule 1		70
Transitional, savings, and related provisions		
Schedule 2		71
Amendments to other Acts		

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Infrastructure Funding and Financing Act 2020.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

3 Purpose

- (1) The purpose of this Act is to provide a funding and financing model for the provision of infrastructure for urban development, that—
 - (a) supports the functioning of urban land markets; and
 - (b) reduces the impact of local authority financing and funding constraints; and
 - (c) supports community needs; and
 - (d) appropriately allocates the costs of infrastructure.
- (2) In this section, **urban development** includes—
 - (a) development of housing, including public housing and community housing, affordable housing, homes for first-home buyers, and market housing;
 - (b) development and renewal of urban environments, whether or not this includes housing development;
 - (c) development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services, or works.

Section 3(1): amended, on 30 November 2022, by section 62(1) of the Statutes Amendment Act 2022 (2022 No 75).

Section 3(2): inserted, on 30 November 2022, by section 62(2) of the Statutes Amendment Act 2022 (2022 No 75).

4 Outline of this Act

- (1) This Part contains preliminary provisions.
- (2) Part 2 describes how a levy to fund eligible costs relating to eligible infrastructure is authorised.
- (3) Part 3 describes how and by whom a levy is administered.
- (4) Part 4 provides for operational and financial controls and powers.
- (5) Part 5 provides for monitoring, enforcement, remedies, and some miscellaneous matters.

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 Act binds the Crown

This Act binds the Crown.

Interpretation

7 Interpretation

(1) In this Act, unless the context otherwise requires,—

annual levy means the amount of levy set by a responsible SPV under subpart 3 of Part 2 as the amount of levy intended to be collected in any levy year

annual levy resolution means a resolution that sets an annual levy, made by a responsible SPV under section 45 or 50

construction, in relation to infrastructure, includes—

- (a) design of the infrastructure; and
- (b) if the infrastructure is not yet vested,—
 - (i) commissioning of the infrastructure; and
 - (ii) operation of the infrastructure between commissioning and vesting; and
- (c) all other necessary steps in a construction project, including planning, regulatory processes, tenders, project delivery, and contract management and administration

council-controlled organisation has the same meaning as in section 6 of the Local Government Act 2002

court means, in relation to any matter, the court before which the matter is to be determined (*see* section 160, which confers exclusive jurisdiction on the High Court in proceedings other than specified proceedings)

Crown Manager means a Crown Manager appointed under section 126

development contribution has the same meaning as in section 197(2) of the Local Government Act 2002

due date, in relation to a levy or part of a levy, means the last day for payment of the levy, or the part of the levy, that is set out in the responsible levy authority's levy assessment

eligible costs has the meaning set out in section 9

eligible infrastructure has the meaning set out in section 8

environmental contribution has the same meaning as in section 11 of the Natural and Built Environment Act 2023

excess levy means levy revenue that—

- (a) is recognised by the responsible SPV as income in relation to the levy period; and
- (b) has not, at the end of the period, been applied to eligible costs

government agency means—

- (a) a department or departmental agency within the meaning of section 2 of the State Sector Act 1988; or
- (b) a Crown entity within the meaning of section 7 of the Crown Entities Act 2004; or
- (c) a Schedule 4A company within the meaning of section 2(1) of the Public Finance Act 1989

levy—

- (a) means a levy authorised by a levy order; and
- (b) includes a penalty added to a levy in accordance with section 75

levy area means the geographic area or areas of land in which a levy is authorised by a levy order

levy assessment means the notice of levy liability that is given to a levypayer under section 70

levy order means an Order in Council made under section 29

levy period means the period over which a levy is to be payable, as specified in a levy order or as later reduced by the responsible SPV under section 52

levy revenue means levy that has been collected or is intended to be collected

levy year, in a levy period, means a period of 12 months within the levy period, beginning on 1 July

levypayer means the person who is liable under section 37 to pay any levy that is due on a rating unit or separate rating area

maximum levy revenue means the amount of levy revenue that a levy order specifies as the maximum amount of levy that may be collected over the levy period (or that amount as later reduced under section 52)

monitor means the monitor appointed under section 118

previous contribution has the meaning set out in section 94(2)

proposer means the person who proposes the use of a levy to fund eligible costs relating to eligible infrastructure

publish, in relation to the monitor or a responsible levy authority (the **publisher**), means to publish on an Internet site that is maintained by or on behalf of the publisher and is publicly available as far as practicable and free of charge

ratepayer has the same meaning as in section 10 of the Local Government (Rating) Act 2002

rates assessment has the same meaning as in section 5 of the Local Government (Rating) Act 2002

rating information database has the same meaning as in section 5 of the Local Government (Rating) Act 2002

rating unit means a rating unit for the purposes of the Rating Valuations Act 1998

receiver has the same meaning as in section 2(1) of the Receiverships Act 1993

recommender means the recommender appointed under section 155

resolution, in relation to a responsible SPV, means a formal resolution, determination, or decision of the SPV, including,—

- (a) in the case of a company within the meaning of section 2(1) of the Companies Act 1993, a resolution of the board of the company in accordance with clause 5(3) of Schedule 3 of that Act; or
- (b) in the case of a limited partnership within the meaning of section 6 of the Limited Partnerships Act 2008, a resolution of the limited partnership within the meaning of section 4 of that Act; or
- (c) in the case of a Crown entity within the meaning of section 7(1) of the Crown Entities Act 2004, a resolution of the board made in accordance with clause 12 of Schedule 5 of that Act

responsible infrastructure authority, in relation to eligible infrastructure, means an agency of 1 of the following kinds in which the eligible infrastructure is, or is proposed to be, vested:

- (a) the responsible levy authority or another territorial authority;
- (b) a council-controlled organisation of the responsible levy authority;
- (c) the relevant regional council;
- (d) a government agency

responsible levy authority, in relation to a levy area, means—

- (a) the territorial authority for the district in which the levy area is located; or
- (b) if the levy area is located in more than 1 district, any territorial authority in whose district any part of the levy area is located (*see* subsection (2))

responsible Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

responsible SPV, in relation to any function referred to in this Act, means,—

- (a) if 1 SPV is named in a levy order, that SPV; or
- (b) if 2 or more SPVs are named in a levy order, the SPV identified in the order as being responsible for the function to which the reference relates

separate rating area means land that has become a separate rating area under section 98A of the Local Government (Rating) Act 2002

significant problem, in relation to a responsible SPV, means a failure by the SPV to comply with this Act or a levy order that could have adverse consequences for 1 or more levypayers

SPV (or **special purpose vehicle**) means a company, limited partnership, Crown entity, or other person that—

- (a) meets the requirements of section 10; and
- (b) is identified by a levy order as being responsible for the matters set out in the order

surplus levy, in relation to a levy year, means levy payable in relation to that year that exceeds eligible costs incurred during that year

territorial authority has the same meaning as in section 5(1) of the Local Government Act 2002

vest, in relation to eligible infrastructure, means to transfer the infrastructure to a responsible infrastructure authority under a vesting agreement

vesting agreement means an agreement under section 90.

- (2) For the purposes of paragraph (b) of the definition of responsible levy authority in subsection (1), each responsible levy authority's responsibility under this Act relates only to that part of the levy area that is in the authority's district.

Section 7(1) **environmental contribution**: inserted, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 7(1) **financial contribution**: repealed, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 7(1) **levypayer**: amended, on 1 July 2021, by section 54(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 7(1) **separate rating area**: inserted, on 1 July 2021, by section 54(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

8 Meaning of eligible infrastructure

- (1) In this Act, **eligible infrastructure** means infrastructure that is—
 - (a) of the type set out in subsection (2); and
 - (b) described in a levy order as infrastructure in relation to which a levy is authorised.
- (2) The type of infrastructure for which a levy may be authorised is new or upgraded—
 - (a) water services infrastructure; or
 - (b) transport infrastructure; or
 - (c) community infrastructure or community facilities; or
 - (d) environmental resilience infrastructure.
- (3) In this section,—

community facilities has the same meaning as in section 197(2) of the Local Government Act 2002

community infrastructure has the same meaning as in section 197(2) of the Local Government Act 2002

environmental resilience infrastructure means infrastructure for—

- (a) managing risks from natural hazards, including by avoiding or mitigating those hazards and reducing those risks; and
- (b) environmental restoration generally

natural hazard has the same meaning as in section 11 of the Natural and Built Environment Act 2023

transport infrastructure means—

- (a) infrastructure that facilitates transport on land by any means; or
- (b) infrastructure that facilitates coastal shipping (including transport by means of harbour ferries, or ferries or barges on rivers or lakes)

water services infrastructure means infrastructure relating to water supply, sewerage, treatment and disposal of sewage, or stormwater drainage.

Section 8(3) **natural hazard**: amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

9 Meaning of eligible costs

- (1) In this Act, **eligible costs** means costs that are—
 - (a) of a type set out in subsection (2); and
 - (b) described in a levy order as the costs that may be met by the levy.
- (2) The types of costs for which a levy may be authorised are—
 - (a) the costs of the construction of eligible infrastructure that are set out in subsection (3); and
 - (b) the costs of financing the construction of eligible infrastructure that are set out in subsection (4); and
 - (c) the costs of the administration of a levy that are set out in subsection (5); and
 - (d) any further costs incurred by a responsible SPV in complying with this Act and the levy order; and
 - (e) the general operating costs of a responsible SPV.
- (3) The costs of the construction of eligible infrastructure are—
 - (a) establishment costs; and
 - (b) construction costs; and
 - (c) costs incurred in operating, repairing, and maintaining eligible infrastructure after it is constructed and before it is vested.

- (4) The financing costs are—
- (a) the costs of meeting a responsible SPV's commitments under any loan or obligations under any incidental arrangement; and
 - (b) the costs of refinancing; and
 - (c) a return on the capital provided by holders of debt or equity.
- (5) The levy administration costs are—
- (a) costs incurred by a responsible levy authority in assessing and collecting a levy; and
 - (b) costs incurred by a responsible levy authority or a responsible SPV in recovering unpaid levy; and
 - (c) costs incurred by the recommender, the monitor, or a Crown Manager in performing their functions or duties or exercising their powers under this Act, if a responsible SPV is liable to fund or reimburse those costs.

- (6) In this section,—

construction costs includes—

- (a) direct construction costs, insurance relating to construction, and project contingency costs incurred by a responsible SPV; and
- (b) construction costs incurred by any other person in relation to any matters set out in paragraph (a), if the responsible SPV is contractually liable to fund or reimburse that person's construction costs

establishment costs includes—

- (a) costs incurred in the establishment of a responsible SPV; and
- (b) costs incurred in relation to the acquisition and preparation of land on which eligible infrastructure is to be constructed, including the costs of purchasing or otherwise acquiring land and the costs of procuring designations under the Natural and Built Environment Act 2023; and
- (c) costs incurred by a responsible SPV in relation to planning and arranging for the commencement of construction work and in relation to any levy proposal; and
- (d) costs incurred by any other person (including levy proposal costs) in relation to any matters set out in paragraphs (a) to (c), if the responsible SPV is contractually liable to fund or reimburse that person's costs

general operating costs means general management and administration costs associated with the construction of eligible infrastructure, the financing of that construction, the administration of a levy, or any support or service received from the Crown

incidental arrangement and **loan** have the same meanings as in section 112 of the Local Government Act 2002, except that each reference to a local authority

must be read as a reference to the responsible SPV that is party to the loan or arrangement

levy proposal costs means costs incurred by—

- (a) the proposer of a levy that is authorised by a levy order; or
- (b) the recommender or any other person acting on behalf of the Crown in relation to any levy proposal.

Section 9(6) **establishment costs** paragraph (b): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

10 What is an SPV

- (1) A company, limited partnership, Crown entity, or other person may be a special purpose vehicle (an **SPV**) under this Act only if its governing documents state that—
 - (a) it is established and operates for the sole purpose of acting as a responsible SPV under this Act; and
 - (b) the governing documents cannot be amended without the consent of the monitor.
- (2) An SPV may be established and operate only in relation to 1 levy order.

Protected Māori land

11 Meaning of protected Māori land

- (1) In this Act, **protected Māori land** means any of the following:
 - (a) Maori customary land;
 - (b) land vested in the Māori Trustee that—
 - (i) is constituted as a Maori reserve by or under the Maori Reserved Land Act 1955; and
 - (ii) remains subject to that Act;
 - (c) land set apart as a Maori reservation under Part 17 of Te Ture Whenua Maori Act 1993;
 - (d) any part of the common marine and coastal area in which customary marine title has, or protected customary rights have, been recognised under the Marine and Coastal Area (Takutai Moana) Act 2011;
 - (e) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014);
 - (f) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014;
 - (g) Maori freehold land;

- (h) General land owned by Maori that was previously Maori freehold land, but ceased to have that status in accordance with—
 - (i) an order of the Māori Land Court made on or after 1 July 1993; or
 - (ii) Part 1 of the Maori Affairs Amendment Act 1967:
 - (i) land held by a post-settlement governance entity if the land was acquired—
 - (i) as redress for the settlement of Treaty of Waitangi claims; or
 - (ii) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed:
 - (j) land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over that land.
- (2) In this section,—
- claimant group** means a group of Maori with Treaty of Waitangi claims against the Crown, whether or not those claims have been lodged with, or heard by, the Waitangi Tribunal under the Treaty of Waitangi Act 1975
- common marine and coastal area** has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
- Crown body** means—
- (a) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004; and
 - (b) a State enterprise, as defined in section 2 of the State-Owned Enterprises Act 1986; and
 - (c) the New Zealand Railways Corporation; and
 - (d) a company or body that is wholly owned or controlled by 1 or more of the following:
 - (i) the Crown;
 - (ii) a Crown entity;
 - (iii) a State enterprise;
 - (iv) the New Zealand Railways Corporation; and
 - (e) a subsidiary (as defined in section 5 of the Companies Act 1993) or related company of a company or body referred to in paragraph (d)
- deed of recognition** means the redress of that name included in certain Treaty settlement Acts
- General land owned by Maori** has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

land held by a post-settlement governance entity includes land that is, in accordance with a Treaty settlement Act, held in the name of a person such as a tipuna of the claimant group (rather than the entity itself)

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

mana whenua has the same meaning as in section 11 of the Natural and Built Environment Act 2023

Maori has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Maori customary land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Maori freehold land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Māori Trustee means the Māori Trustee established under the Māori Trustee Act 1953

post-settlement governance entity—

- (a) means a body corporate or the trustees of a trust established, for the purpose of receiving redress in the settlement of the Treaty of Waitangi claims of a claimant group,—
 - (i) by that group; or
 - (ii) by or under an enactment or order of a court; and
- (b) includes—
 - (i) an entity established to represent a collective or combination of claimant groups; and
 - (ii) an entity controlled by an entity referred to in paragraph (a); and
 - (iii) an entity controlled by a hapū to which redress has been transferred by an entity referred to in paragraph (a)

protected customary right has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

redress means redress provided for, by, or under a Treaty settlement Act or Treaty settlement deed, including redress by or under—

- (a) a statutory acknowledgment and the associated statement of association;
- (b) a deed of recognition

statutory acknowledgement means redress of that name included in certain Treaty settlement Acts

Treaty of Waitangi claim means a claim within the meaning of section 6 of the Treaty of Waitangi Act 1975, whether or not that claim was submitted to the Waitangi Tribunal.

(3) In this section and section 14,—

Treaty settlement Act means—

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or
- (b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act

Treaty settlement deed means a deed or other agreement—

- (a) that is signed for and on behalf of the Crown by 1 or more Ministers of the Crown and by representatives of a claimant group; and
- (b) that is in settlement of the Treaty of Waitangi claims of the members of that group, or in express anticipation, or on account, of that settlement.

Section 11(2) **mana whenua**: amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

12 Te Ture Whenua Maori Act 1993 not affected by this Act

Nothing in this Act limits or otherwise affects Te Ture Whenua Maori Act 1993.

13 Marine and Coastal Area (Takutai Moana) Act 2011 not affected by this Act

Nothing in this Act limits or otherwise affects the Marine and Coastal Area (Takutai Moana) Act 2011.

14 Treaty settlement obligations prevail

- (1) If a provision of this Act is inconsistent with a Treaty settlement obligation, the Treaty settlement obligation prevails.
- (2) In this section, **Treaty settlement obligation** means an obligation under any of the following:
 - (a) a Treaty settlement Act;
 - (b) a Treaty settlement deed.

Application of Local Government (Rating) Act 2002

15 How Local Government (Rating) Act 2002 applies to this Act

- (1) This section describes how provisions of the Local Government (Rating) Act 2002 apply for the purposes of this Act.
- (2) If this Act applies a provision of the Local Government (Rating) Act 2002, that provision applies—
 - (a) as if any reference to—

- (i) a local authority were a reference to a responsible levy authority; and
 - (ii) rates included a reference to a levy; and
 - (iii) a ratepayer included a reference to a levypayer; and
 - (iv) a rates assessment included a reference to a levy assessment; and
 - (v) a rates invoice included a reference to a levy invoice; and
 - (vi) the local authority's district were a reference to the levy area; and
 - (b) as further modified by subsection (3); and
 - (c) as further modified by the provision of this Act that applies the Local Government (Rating) Act 2002 provision; and
 - (d) with all other necessary modifications.
- (3) Despite subsection (2)(a)(i), a provision of the Local Government (Rating) Act 2002 that is applied under subpart 3 of Part 3 applies as if a reference to a local authority were a reference to a responsible SPV.

Part 2

Authorisation of levy

16 Outline of this Part

- (1) This Part provides for a levy to be authorised to fund eligible costs relating to eligible infrastructure.
- (2) Subpart 1 describes how a proposal to have a levy authorised is considered and recommended.
- (3) Subpart 2 describes the Order in Council that authorises the use of a levy in a levy area.
- (4) Subpart 3 describes the basic features of levy liability and how the levy is set for each levy year.

Subpart 1—Consideration of levy proposal

Levy proposal

17 Who may propose levy

- (1) Any person may propose that a levy be authorised to fund eligible costs relating to eligible infrastructure.
- (2) The proposer must give the proposal to the recommender.

18 Content of levy proposal

A levy proposal for the authorisation of a levy must include the following information:

- (a) the proposed levy area:
- (b) details of any protected Māori land in the proposed levy area:
- (c) the proposed eligible infrastructure:
- (d) the expected eligible costs and the expected timing of the construction:
- (e) the proposed financing of eligible costs, including details of the commercial relationships between financing entities:
- (f) the proposed levy period:
- (g) the proposed SPV or SPVs:
- (h) if 2 or more SPVs are proposed,—
 - (i) the proposed responsibilities of those SPVs under this Act; and
 - (ii) the proposed commercial relationships between those SPVs:
- (i) for each proposed SPV, forecast financial statements for each levy year, including—
 - (i) all expected eligible costs, described by category; and
 - (ii) any expected funding (sources and amounts) in addition to the proposed levy; and
 - (iii) the projected levy revenue:
- (j) the proposed responsible levy authority or authorities and proposed responsible infrastructure authority or authorities:
- (k) the proposed method of assessing levy liability for rating units in the levy area (including examples of expected assessments for a representative range of rating units):
- (l) all other information necessary to enable the recommender to assess the levy proposal.

Levy proposal assessed by recommender

19 Recommender assesses levy proposal

- (1) The recommender must notify the responsible Minister of any levy proposal that the recommender receives.
- (2) The recommender—
 - (a) may assess any levy proposal that the recommender receives; and
 - (b) must assess a levy proposal on request by the responsible Minister.
- (3) A proposer must give to the recommender any additional information required by the recommender for the purpose of assessing a levy proposal.

20 Infrastructure endorsement

- (1) A proposed responsible infrastructure authority may endorse the technical specifications of proposed eligible infrastructure if satisfied that—

- (a) those specifications are compatible with any wider infrastructure network of which it is to be a part, or will be made compatible with the network if specified conditions included in the vesting agreement for the infrastructure under section 90 are met; and
 - (b) the proposed responsible infrastructure authority will be able to plan for and meet the necessary operational and maintenance costs of the infrastructure after it is vested in the authority.
- (2) The proposed responsible infrastructure authority may give an infrastructure endorsement on request by the proposer, a person acting on behalf of the proposer, or the recommender.
 - (3) The person who requests an infrastructure endorsement must give to the proposed responsible infrastructure authority all additional information required by the authority for the purpose of giving the endorsement.
 - (4) For the purpose of subsection (1)(a), the proposed responsible infrastructure authority may require that specified conditions that the authority considers appropriate be included in the vesting agreement relating to the proposed eligible infrastructure.

21 Levy endorsement

- (1) A proposed responsible levy authority may endorse the proposed levy unless the authority can demonstrate that the proposed levy will compromise its ability to collect rates during the proposed levy period.
- (2) The proposed responsible levy authority may give a levy endorsement on request by the proposer, a person acting on behalf of the proposer, or the recommender.

22 Authorities not restricted by endorsement

Giving an infrastructure endorsement or a levy endorsement does not—

- (a) require a proposed responsible infrastructure authority or proposed responsible levy authority to agree with or approve of any other aspect of the levy proposal or the construction work to which it relates; or
- (b) limit or affect the authority in its performance of any function or duty, or its exercise of any power, under this Act or any other Act.

23 Endorsements notified

A proposed responsible infrastructure authority or proposed responsible levy authority must give the recommender and the person who requested an infrastructure endorsement or a levy endorsement written notification of its decision about the endorsement (including a decision not to give the endorsement) and the reasons for that decision.

24 Consent to include protected Māori land

- (1) Protected Māori land may be included in a proposed levy area only if the owners of that land consent to its inclusion.
- (2) The owners must give any consent in writing to the proposer and the recommender.

25 Recommendation

- (1) The recommender must not recommend a levy proposal to the responsible Minister unless the recommender has received—
 - (a) all endorsements under sections 20 and 21; and
 - (b) the consent under section 24.
- (2) In deciding whether to recommend a levy proposal, the recommender must take into account only—
 - (a) the matters set out in section 27(4)(a) to (g); and
 - (b) all other matters of practicality, efficiency, and equity that the recommender believes may assist the responsible Minister's consideration of the levy proposal.

26 Recommendation report

- (1) The recommender—
 - (a) must prepare a report on any levy proposal that the recommender is directed to assess under section 19(2)(b); and
 - (b) may prepare a report on any other levy proposal given to the recommender.
- (2) A report under this section must contain—
 - (a) the recommender's assessment of the proposal against the purpose of this Act; and
 - (b) the recommender's assessment of the proposal against—
 - (i) the matters set out in section 27(4)(a) to (g), (5), and (6); and
 - (ii) all other matters of practicality, efficiency, and equity that the recommender believes may assist the responsible Minister's consideration of the levy proposal; and
 - (c) the recommender's recommendation about whether the proposed levy should be authorised; and
 - (d) all information that the responsible Minister needs to consider the levy proposal, including the information about—
 - (i) all of the matters set out in sections 31 to 33; and
 - (ii) any of the matters set out in section 34 that the recommender considers relevant to the report.

- (3) The recommender must give to the responsible Minister—
 - (a) the recommendation report; and
 - (b) the notifications received by the recommender under section 23; and
 - (c) the consent received by the recommender under section 24(2).

Responsible Minister's consideration of levy proposal

27 Responsible Minister may recommend levy order to Governor-General in Council

- (1) The responsible Minister may recommend to the Governor-General in Council that a levy order be made only if the responsible Minister is satisfied that authorising the proposed levy is appropriate having regard to the matters set out in subsection (4) and in accordance with subsections (5) and (6).
- (2) The responsible Minister may recommend that a levy order be made only after receiving a recommendation report that includes all endorsements and consents under sections 20, 21, and 24.
- (3) The responsible Minister—
 - (a) is not required to accept the recommendation in the recommendation report; but
 - (b) if recommending that a levy be authorised, may only recommend the levy on the terms set out in the recommendation report.
- (4) The responsible Minister must take only the following matters into account:
 - (a) whether the levy proposal is consistent with the purpose of this Act;
 - (b) the extent of expected benefits outside the levy area compared with expected benefits within the levy area;
 - (c) the distribution of expected benefits in the levy area as a whole or any identifiable part of the levy area, and to persons in the levy area;
 - (d) the extent to which the actions or inaction of particular persons or a group contribute to the need to undertake the construction work;
 - (e) the period over which benefits are expected to occur;
 - (f) the long-term interests of levypayers over the levy period;
 - (g) the affordability of the levy for levypayers and the sustainability of its payment by them over the levy period;
 - (h) all other matters of practicality, efficiency, and equity that the responsible Minister considers relevant, including whether the expected returns on the capital provided by holders of debt or equity are consistent with outcomes produced in workably competitive markets.
- (5) The responsible Minister may recommend that a levy order apply section 99 only if satisfied that the exercise by a responsible SPV of the powers referred

to in section 99(2) is reasonably necessary to complete the construction of the relevant eligible infrastructure.

- (6) The responsible Minister may recommend that a levy order apply either or both of the limits in section 142 only if satisfied that the recommendation is not likely to unfairly prejudice any creditor of the responsible SPV in the relevant circumstances.

28 Consultation

- (1) Before recommending a levy order, the responsible Minister must consult the Ministers responsible for the following Acts:
- (a) the Commerce Act 1986:
 - (b) the Credit Contracts and Consumer Finance Act 2003:
 - (c) the Local Government Act 2002:
 - (d) the Local Government (Rating) Act 2002:
 - (e) the Public Finance Act 1989.
- (2) Before making a recommendation under section 27(6), the responsible Minister must consult the Minister responsible for the Companies Act 1993 and the Minister responsible for the Property Law Act 2007.

Subpart 2—Levy order

29 Order in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, authorise the use of a levy for the purpose of funding eligible costs relating to eligible infrastructure.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 29(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

30 Monitor publishes recommender's report

If a levy order is made, the monitor must publish the recommender's report received by the responsible Minister under section 26.

31 Content of levy order

- (1) A levy order must—

- (a) identify the levy area; and
 - (b) describe the eligible infrastructure that is to be constructed; and
 - (c) specify the eligible costs that are to be met by the levy; and
 - (d) specify the levy period and its earliest commencement date (which must be 1 July of the first levy year); and
 - (e) describe the levy; and
 - (f) identify the SPV that is entitled to the levy that is collected under the order; and
 - (g) provide whether that SPV is also responsible for the construction of eligible infrastructure; and
 - (h) if there are 2 or more SPVs, describe their responsibilities; and
 - (i) specify limits on returns on capital; and
 - (j) provide for the periodic forecasting of excess levy; and
 - (k) include any other matter required by this subpart.
- (2) The description of eligible infrastructure under subsection (1)(b) must be—
- (a) general in nature; but
 - (b) detailed enough to enable the identification of eligible costs.
- (3) For the purposes of subsection (1)(d),—
- (a) the levy period must not exceed the maximum levy period in section 39(1); and
 - (b) the levy order must identify the first year of the levy period by—
 - (i) specifying a year; or
 - (ii) referring to a future event; and
 - (c) the order must specify 30 June of the final levy year as the end of the levy period.
- (4) For the purposes of subsection (1)(e),—
- (a) the levy must be in accordance with sections 32 and 33; and
 - (b) the description of the levy must—
 - (i) specify the maximum amount of levy revenue that may be collected under the levy order; and
 - (ii) include the intended annual levy for each levy year.

32 Setting levy: leviable land

- (1) The levy order may authorise a levy to be set for all leviable land in the levy area—
- (a) on a uniform basis; or
 - (b) differentially for 2 or more different categories of leviable land.

- (2) If subsection (1)(b) applies, the levy order must identify the categories of leviable land that are defined in terms of 1 or more of the matters listed in Schedule 2 of the Local Government (Rating) Act 2002, as modified by subsection (3) and with all other necessary modifications.
- (3) Clause 5 of Schedule 2 of the Local Government (Rating) Act 2002 applies as if—
 - (a) it referred to the provision or availability to the land of either or both of the following:
 - (i) a service provided, or to be provided, using eligible infrastructure;
 - (ii) access to a new or an upgraded road that is eligible infrastructure; and
 - (b) it referred, in addition to the local authority, to—
 - (i) a council-controlled organisation of the local authority; and
 - (ii) any government agency.

33 Setting levy: factors to be used in assessing liability

- (1) The levy order must set out how liability for the levy is to be assessed for rating units.
- (2) The levy order must identify a factor or factors listed in Schedule 3 of the Local Government (Rating) Act 2002, as modified by subsection (5) and with all other necessary modifications, to be used to assess liability for the levy.
- (3) Despite subsection (2), the levy order may provide for the calculation of the liability for the levy as a fixed amount for each rating unit in the levy area.
- (4) If the levy is set differentially under section 32(1)(b), the levy order does not have to require a levy to be assessed using the same factors for each category of land.
- (5) Clauses 8, 9, and 10 of Schedule 3 of the Local Government (Rating) Act 2002 apply as if they referred—
 - (a) to the provision or availability to the land of either or both of the following:
 - (i) a service provided, or to be provided, using eligible infrastructure;
 - (ii) access to a new or an upgraded road that is eligible infrastructure; and
 - (b) in addition to the local authority, to—
 - (i) a council-controlled organisation of the local authority; and
 - (ii) any government agency.

34 Additional content of levy order

A levy order may—

- (a) specify a cap, or impose a control, on the application of levy revenue to specified types or categories of eligible costs; and
- (b) require the responsible SPV, in the event that a specified amount of forecast excess levy is exceeded, to reduce the maximum levy revenue by reducing either or both of the following:
 - (i) the levy period;
 - (ii) the levies payable in later levy years; and
- (c) specify a cap, or impose a control, on the amount of surplus levy that may be held in the levy account, whether held in relation to 1 or more levy years; and
- (d) contain details of the incorporation and ownership of any SPVs; and
- (e) describe what change of control of an SPV constitutes a restricted change of control for the purposes of section 122; and
- (f) impose conditions on procurement processes; and
- (g) apply any or all of the following:
 - (i) section 99 (powers relating to private land) in relation to all eligible infrastructure (or classes of it);
 - (ii) sections 100 to 105 (powers relating to roads and public land);
 - (iii) either or both of the limits in section 142 (limit on usual rules for creditors) to transactions and dispositions of eligible infrastructure (or any class of them); and
- (h) impose further conditions and requirements on any SPV relating to the matters authorised to be contained in a levy order by this Act or to further support duties imposed on the SPV by this Act.

Subpart 3—Basis of liability for levy

Preliminary

35 Application

This subpart applies when a levy order comes into force.

36 Leviable land

Land within a levy area is leviable under this Act to the extent that it is rateable under sections 7 to 9 of the Local Government (Rating) Act 2002.

37 Who must pay levy

- (1) The ratepayer for a rating unit is liable to pay all levy that is due on the unit.
- (1A) The ratepayer for a separate rating area is liable to pay all levy that is due on the separate rating area.
- (2) However,—

- (a) a person other than the ratepayer may become liable to pay the levy in the circumstances set out in section 61, 62, 62A, or 96 of the Local Government (Rating) Act 2002; and
 - (b) the levy liability of trustees in whom Māori freehold land is vested is limited in accordance with section 93 of the Local Government (Rating) Act 2002, which applies subject to subsection (3) and with all other necessary modifications; and
 - (c) the ratepayer for a rating unit is not liable for any levy due on any separate rating area in the rating unit.
- (3) In any calculation of the levy liability of trustees under section 93 of the Local Government (Rating) Act 2002, any rates assessed under that Act must first be deducted from the income referred to in that section.

Section 37(1A): inserted, on 1 July 2021, by section 55(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 37(2)(a): amended, on 1 July 2021, by section 55(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 37(2)(c): inserted, on 1 July 2021, by section 55(3) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

38 When levy payment must be made

Levy must be paid, and instalments of levy must be paid, on the dates set under section 24 of the Local Government (Rating) Act 2002 for the payment of rates and rates instalments.

39 Levy period

- (1) The levy period specified in a levy order must not exceed 50 years.
- (2) The levy period begins at the start of the first year of the levy period.

Responsible SPV sets annual levy

40 Annual levy

- (1) The responsible SPV must set the amount of levy for each levy year.
- (2) Each levy must—
 - (a) relate to a levy year; and
 - (b) comply with the levy order.
- (3) In setting the levy, the responsible SPV must calculate it in accordance with the levy order.
- (4) The responsible SPV must ensure that the process of confirmation of an annual levy set out in sections 42 to 50 is completed in time for a resolution under section 45 or, if applicable, section 50 to be given to the monitor and the responsible levy authority by 10 May before the start of the levy year for which the annual levy is being set.

41 Rating information needed by SPV

A responsible levy authority must give to a responsible SPV all rating information from the authority's rating information database that the responsible SPV reasonably requests in order to set annual levy.

Confirmation of annual levy

42 Proposed annual levy resolution

- (1) The responsible SPV must prepare a proposed annual levy resolution for each levy year.
- (2) A proposed annual levy resolution must contain information that is sufficient to enable the responsible levy authority to correctly assess the levy on all rating units in the levy area that are subject to the levy.
- (3) If a levy order authorises a levy to be applied to more than 1 category of land, a proposed annual levy resolution must specify, for each category of land, the amount of levy to be assessed and the factor or factors to be used in the assessment.
- (4) The proposed annual levy resolution must also include the total amount of levy revenue that the SPV intends to collect in the levy year to which the resolution relates, including the levy revenue expected from each category of land.

43 Monitor reviews proposed resolution and report

- (1) The responsible SPV must give to the monitor—
 - (a) a copy of a proposed annual levy resolution; and
 - (b) a report that describes how the proposed resolution complies with the levy order and includes a statement of all assumptions about present and future events and circumstances relied on in preparing the resolution; and
 - (c) any further information required by the monitor.
- (2) The monitor must review the proposed annual levy resolution and report and determine whether the proposed resolution is in accordance with the levy order.

44 Monitor confirms proposed resolution

If the monitor is satisfied that the proposed annual levy resolution is in accordance with the levy order, the monitor must—

- (a) confirm that the proposed annual levy is in accordance with the levy order; and
- (b) notify the responsible SPV of the confirmation.

45 Responsible SPV sets annual levy

- (1) On being notified of the monitor's confirmation of a proposed annual levy resolution, the responsible SPV must, by written resolution, set the annual levy for the coming levy year in accordance with that confirmation.
- (2) The responsible SPV must, no later than 10 working days after the day on which the resolution is made, send a copy of the resolution to the monitor and the responsible levy authority.
- (3) *[Repealed]*

Section 45(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

46 Monitor publishes resolution

The monitor must publish a resolution no later than the day that is 5 working days after receiving it under section 45(2).

47 Monitor not satisfied

If the monitor is not satisfied that the proposed annual levy resolution complies with the levy order, the monitor must notify the responsible SPV of—

- (a) its decision; and
- (b) the reasons for the decision; and
- (c) what the responsible SPV should do in order to satisfy the monitor about the proposed resolution.

48 Revised proposed annual levy resolution

- (1) On receiving a notification under section 47, the responsible SPV must prepare and give to the monitor a revised proposed annual levy resolution for confirmation.
- (2) Sections 42 to 47 apply in relation to the revised proposed resolution.

49 Monitor directs resolution

- (1) If the monitor does not confirm the revised proposed annual levy resolution, the monitor may—
 - (a) allow the responsible SPV to prepare a further revised proposed annual levy resolution under section 48; or
 - (b) direct the responsible SPV to prepare an annual levy resolution in terms required by the monitor.
- (2) The monitor—
 - (a) may allow the process of preparation and consideration of revised proposed annual levy resolutions to be repeated; but
 - (b) must give a direction under subsection (1)(b) in time to enable the responsible SPV to set the annual levy under section 50 on or before

10 May before the start of the levy year for which the annual levy is being set.

50 Responsible SPV sets annual levy as directed

- (1) On receiving a direction under section 49, the responsible SPV must,—
 - (a) by written resolution, set the annual levy for the coming levy year in accordance with that direction; and
 - (b) comply with section 45(2) in relation to that resolution.
- (2) *[Repealed]*

Section 50(2): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Correcting annual levy

51 Responsible SPV may correct annual levy resolution

- (1) The responsible SPV may correct an annual levy resolution at any time before the end of the levy year for which the levy was set if—
 - (a) the SPV considers it desirable to correct the levy because of 1 or more of the following:
 - (i) an irregularity in setting the levy;
 - (ii) a mistake in calculating the levy;
 - (iii) a relevant change in circumstances; and
 - (b) correcting the levy will not increase the amount of levy assessed for any rating unit or separate rating area.
- (2) The responsible SPV may correct the annual levy only if—
 - (a) it has given 14 days' public notice and notice to the monitor of its intention to correct the levy; and
 - (b) the monitor consents to the change.
- (3) The notice must include the reason why the SPV has determined that it is desirable to correct the annual levy.
- (4) If correcting the annual levy results in a change to the amount of levy to be assessed for any rating unit or separate rating area,—
 - (a) the responsible levy authority must correct the levy-related information in the rates record for the rating unit or separate rating area as soon as practicable; and
 - (b) section 41 of the Local Government (Rating) Act 2002 applies.
- (5) In this section, **public notice** has the same meaning as in section 5 of the Local Government (Rating) Act 2002.

Compare: 2002 No 6 s 119

Section 51(1)(b): amended, on 1 July 2021, by section 56(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 51(4): amended, on 1 July 2021, by section 56(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 51(4)(a): amended, on 1 July 2021, by section 56(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Maximum levy revenue can be reduced

52 Maximum levy revenue can be reduced

- (1) This section applies if a levy order includes a requirement under section 34(b).
- (2) If the amount of the responsible SPV's forecast excess levy exceeds the amount specified by the levy order, the SPV must reduce the maximum levy revenue by reducing either or both of the following:
 - (a) the levy period:
 - (b) the amount of the levy set in later levy years under this subpart.
- (3) The responsible SPV must notify the monitor of a reduction in the maximum levy revenue.
- (4) The monitor must publish a notice of the reduced maximum levy revenue no later than the day that is 5 working days after being notified of it.

Part 3

Administration of levy

53 Outline of this Part

- (1) This Part describes how a levy that is authorised under a levy order is administered.
- (2) Subpart 1 provides for who is responsible for administering a levy and sets out modifications to the Local Government (Rating) Act 2002 that apply throughout this Part.
- (3) Subpart 2 describes how the responsible levy authority administers a levy on behalf of the responsible SPV, including by recovering unpaid levy.
- (4) Subpart 3 describes how the responsible SPV recovers unpaid levy in specified circumstances.

Subpart 1—Who administers levy

54 Who administers levy

- (1) The responsible SPV is authorised to administer a levy that is authorised by a levy order.
- (2) However, the responsible levy authority must administer the levy on behalf of the responsible SPV in accordance with—

- (a) the levy order; and
- (b) subpart 2; and
- (c) a levy administration agreement entered into with the responsible SPV.

55 Levy administration agreement

- (1) The responsible levy authority and the responsible SPV must take all reasonable steps to enter into a levy administration agreement under which the responsible levy authority will administer a levy on behalf of the responsible SPV, including by assessing and collecting the levy and recovering unpaid levy.
- (2) The agreement must be consistent with this Part.

56 When agreement not reached

- (1) If the responsible SPV and the responsible levy authority cannot agree on all terms of a levy administration agreement, they must refer the issue to the monitor.
- (2) The monitor must determine all outstanding terms of the agreement within 20 working days.
- (3) The terms of the agreement are—
 - (a) as agreed between the parties, to the extent that they are agreed; and
 - (b) otherwise, as determined by the monitor.

57 When SPV recovers unpaid levy

- (1) This section applies if—
 - (a) there is an amount of levy unpaid for a rating unit or separate rating area; and
 - (b) rates for that rating unit or separate rating area have been paid.
- (2) The responsible levy authority—
 - (a) may notify the responsible SPV that the authority will not recover the unpaid levy; and
 - (b) on notifying the responsible SPV under paragraph (a), is not required to recover that unpaid levy on behalf of the SPV.

Section 57(1)(a): amended, on 1 July 2021, by section 57 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 57(1)(b): amended, on 1 July 2021, by section 57 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

58 Levy is charge against rating unit

- (1) A levy assessed in respect of a rating unit is a charge against that unit.
- (2) Subsection (1) does not apply in respect of a levy due on a separate rating area.

Compare: 2002 No 6 s 59

Section 58(2): inserted, on 1 July 2021, by section 58 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

59 Invalidity of levy not ground for refusal to pay levy

A person must not refuse to pay a levy on the ground that the levy is invalid unless the person brings proceedings to challenge the validity of the levy on the ground that the responsible levy authority or the responsible SPV is not empowered to set or assess the levy on the particular rating unit or separate rating area.

Compare: 2002 No 6 s 60

Section 59: amended, on 1 July 2021, by section 59 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Subpart 2—Responsible levy authority administers levy

Levy proceeds paid to responsible SPV

60 Collected levy paid to responsible SPV

- (1) The responsible levy authority must pay to the responsible SPV all levy revenue that the authority collects, and all unpaid levy that the authority recovers, on behalf of the SPV under this subpart.
- (2) However, this obligation is subject to the terms of the levy administration agreement between the authority and the SPV.

Rating information database and rating records

61 Rating information database

- (1) The responsible levy authority must include in its rating information database levy-related information about rating units and separate rating areas in the levy area, including all information that relates to any rating unit or separate rating area that is required to—
 - (a) determine the category (if any) to which any rating unit or separate rating area belongs for setting a levy; and
 - (b) calculate the liability for a levy.
- (2) The sections of the Local Government (Rating) Act 2002 that are set out in subsection (3) apply to the inclusion of that information in the database, except that any reference in—
 - (a) section 27(4)(b) to information must be read as referring to the information required by subsection (1)(a) and (b) of this section; and
 - (b) section 27(5)(a) to different categories must be read as referring to the categories referred to by subsection (1)(a) of this section.
- (3) The sections are—
 - (a) section 27 (rating information database):

- (b) section 28 (inspection of rating information database):
- (c) section 28A (inspection of complete rating information database):
- (d) section 28B (local authority must inform owners of right to withhold certain information from database):
- (e) section 28C (owner entered on database may require local authority to withhold information from database):
- (f) section 29 (objections to rating information database).

Section 61(1): amended, on 1 July 2021, by section 60(a) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 61(1): amended, on 1 July 2021, by section 60(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 61(1)(a): amended, on 1 July 2021, by section 60(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

62 Objections by levypayers

- (1) If an objection under section 29 of the Local Government (Rating) Act 2002 (as applied to levy-related information) is not upheld, the objector may refer the objection to the monitor to consider whether the levy was incorrectly assessed.
- (2) Objections must be referred in writing and lodged with the monitor.
- (3) The monitor must consider any written objection lodged with it under this section.
- (4) After considering the objection, the monitor must—
 - (a) determine whether the assessment was made in accordance with the levy order and the relevant annual levy resolution; and
 - (b) inform the objector and the responsible levy authority in writing of its decision; and
 - (c) if the assessment was not made in accordance with the levy order and the relevant annual levy resolution, direct the responsible levy authority to ensure that the assessment is corrected.
- (5) The monitor must comply with subsection (4) no later than 30 working days after the day on which the objection is lodged with the monitor.
- (6) If directed by the monitor, the responsible levy authority must—
 - (a) correct the entry in the rating information database; and
 - (b) inform the levypayer that the correction has been made.

63 Responsible SPV to give levy-related information to responsible levy authority

The responsible SPV must give to the responsible levy authority all levy-related information that—

- (a) is necessary to enable the authority to keep and maintain its rating information database in accordance with section 27 of the Local Government (Rating) Act 2002, as applied by this Act; and
- (b) is not in the authority's rating information database for rating purposes.

64 Notification of change in circumstances

The following sections of the Local Government (Rating) Act 2002 apply to levies under this Act:

- (a) section 30 (interpretation):
- (b) section 31 (notification of change of ownership of rating unit):
- (c) section 32 (notification of surrender or termination of lease or licence):
- (d) section 33 (notification of transfer or assignment of lease or licence):
- (e) section 34 (effect of notice on liability for rates):
- (f) section 35 (when name of ratepayer entered in rating information database may be removed):
- (g) section 36 (notification of change of name).

65 Rates records and objections, etc, to rates records

- (1) The responsible levy authority must include information relating to levy liability in the rates record for each rating unit and separate rating area in the levy area.
- (2) The sections of the Local Government (Rating) Act 2002 that are set out in subsection (7) apply to that levy-related information (except that, in section 37(3) of that Act, the reference to section 27(4) must be read as a reference to that provision as applied by section 61(2)(a) of this Act).
- (3) A levypayer may object to the levy-related information in a rates record on the ground that it is incorrectly recorded.
- (4) Objections must be lodged with the responsible levy authority.
- (5) If an objection is lodged,—
 - (a) the responsible levy authority must notify the levypayer in writing of its decision on an objection; and
 - (b) if the objection is upheld, correct the entry in the rates record accordingly.
- (6) If the responsible levy authority notifies the levypayer that the objection is not upheld,—
 - (a) the levypayer may lodge the objection in writing with the monitor for reconsideration; and
 - (b) the monitor must reconsider the objection and notify the levypayer and the responsible levy authority in writing of its decision on the objection; and

- (c) if the objection is upheld, the responsible levy authority must correct the entry in the rates record accordingly.
- (7) For the purposes of subsection (2), the sections are—
- (a) section 37 (rates records):
 - (b) section 38 (inspection of rates records):
 - (c) section 39 (objection to rates records).

Section 65(1): amended, on 1 July 2021, by section 61 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

66 Correction of errors

The responsible levy authority, whether or not an objection has been made, may correct an error in levy-related information in—

- (a) the rating information database; or
- (b) a rates record.

67 Amended levy assessment and recovery of additional levy

- (1) The sections of the Local Government (Rating) Act 2002 that are set out in subsection (3) apply to the issue of an amended levy assessment by the responsible levy authority.
- (2) In applying those sections, a reference—
- (a) to the rating information database must be read as a reference to levy-related information in the rating information database; and
 - (b) to a rates record must be read as including a reference to levy-related information in that rates record; and
 - (c) in section 41(1)(a) of the Local Government (Rating) Act 2002 to section 40 of that Act must be read as a reference to section 66 of this Act.
- (3) For the purposes of subsection (1), the sections are—
- (a) section 41 (amended assessment if error in rating information database or rates record is corrected):
 - (b) section 41A (amended assessment to give effect to objection to valuation under Rating Valuations Act 1998):
 - (c) section 42 (recovery of additional rates in certain cases).

Levy assessment and invoicing

68 Assessment of levy liability

- (1) A responsible levy authority must assess the levy to be paid by a levypayer—
- (a) in accordance with the levy order; and
 - (b) on the basis of the following information:
 - (i) the annual levy resolution for the levy year:

- (ii) levy-related information in the authority's rating information database, corrected as at the end of the levy year immediately before the levy year for which the levy is assessed.
- (2) The levy liability of a rating unit or separate rating area is not affected by a change to any factor (listed in Schedule 3 of the Local Government (Rating) Act 2002, as applied by section 33(5) of this Act) in relation to the rating unit or separate rating area during the levy year for which the levy is assessed.

Section 68(2): amended, on 1 July 2021, by section 62(a) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 68(2): amended, on 1 July 2021, by section 62(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

69 When responsible levy authority must treat 2 or more rating units as 1 unit for assessing levy

The responsible levy authority must treat 2 or more rating units as 1 unit for assessing levy if the rating units are treated as 1 unit under section 20 or 20A of the Local Government (Rating) Act 2002.

Section 69: replaced, on 1 July 2021, by section 63 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

70 Levy assessment notified to levypayer

- (1) A responsible levy authority must give to a levypayer in the levy area notice of the levypayer's liability for a levy on a rating unit or separate rating area—
- (a) by including it in a rates assessment delivered under section 44 of the Local Government (Rating) Act 2002; or
 - (b) by agreement with the responsible SPV, as a separate notice of assessment.
- (2) A levypayer is liable for the levy on a rating unit or separate rating area when the responsible levy authority delivers the notice of levy liability to the levypayer.

Section 70(1): amended, on 1 July 2021, by section 64 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 70(2): amended, on 1 July 2021, by section 64 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

71 Information in levy assessment

- (1) This section sets out the levy liability information that the responsible levy authority must include in a levy assessment.
- (2) The following sections of the Local Government (Rating) Act 2002 apply to a rates assessment that includes levy liability:
- (a) section 45 (contents of rates assessment): and
 - (b) section 98C (contents of rates assessment for separate rating area).

Section 71(2): replaced, on 1 July 2021, by section 65 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

72 Levy invoice

- (1) The responsible levy authority must deliver to a levypayer a levy invoice for a period for which levy payment is due, and section 46 (rates invoice) of the Local Government (Rating) Act 2002 applies to the levy invoice.
- (2) The authority may deliver the levy invoice—
 - (a) by including it in a rates invoice delivered under section 46 of the Local Government (Rating) Act 2002; or
 - (b) by agreement with the responsible SPV, as a separate invoice delivered under section 46(4) and (5) of the Local Government (Rating) Act 2002.
- (3) A levy invoice must include the name and address of the responsible SPV.
- (4) The authority must ensure that a rates invoice clearly distinguishes a levy from rates.

73 Further processes for levy assessment and levy invoice

The following sections of the Local Government (Rating) Act 2002 apply to a levy assessment and a levy invoice:

- (a) section 47 (issue of amended rates invoice):
- (b) section 48 (delivery of rates assessment and rates invoice):
- (c) section 49 (late delivery of rates invoice):
- (d) section 51 (combined rates assessment and rates invoice):
- (e) section 98B (apportionment of rates for separate rating areas):
- (f) section 98D (when separate rating area divided from rating area):
- (g) section 98E (how separate rating area ceases to be a separate rating area).

Section 73(e): inserted, on 1 July 2021, by section 66 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 73(f): inserted, on 1 July 2021, by section 66 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 73(g): inserted, on 1 July 2021, by section 66 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Collection of levy

74 Collection of levy

- (1) The following sections of the Local Government (Rating) Act 2002 apply to the collection of a levy:
 - (a) section 52 (payment of rates):
 - (b) section 54 (power not to collect small amounts).

- (2) Section 54 of the Local Government (Rating) Act 2002 applies in relation to the combined amount of rates and levy to be collected, and the responsible levy authority must inform the responsible SPV of any amounts of levy not collected under that section.

Penalties

75 Penalties for unpaid levy

- (1) The responsible levy authority may impose penalties in addition to a levy that is not paid by the due date.
- (2) The amount of the penalty is the amount of penalty authorised by the authority in relation to unpaid rates under section 57 of the Local Government (Rating) Act 2002.
- (3) Section 58 (imposition of penalty) of the Local Government (Rating) Act 2002 applies to those penalties.

Remission and postponement of levy

76 Levy remission and levy postponement policies

- (1) The responsible SPV and the responsible levy authority must take all reasonable steps to agree on the terms of a levy remission policy and a levy postponement policy for the purposes of this Act.
- (2) A levy remission policy may provide that there is to be no remission of levy, and a levy postponement policy may provide that there is to be no postponement of the requirement to pay a levy.
- (3) A levy remission policy must not contain any provision in relation to development contributions or environmental contributions previously received by the responsible levy authority (*see* sections 94 to 98).
- (4) The responsible SPV must give a copy of its levy remission policy and levy postponement policy to—
 - (a) the monitor; and
 - (b) the responsible levy authority.
- (5) The monitor must publish the policies.
- (6) The responsible levy authority must also publish the policies.

Section 76(3): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

77 Levy remission and levy postponement policies relating to Maori freehold land

- (1) For the purpose of agreeing on the terms of a levy remission policy or a levy postponement policy (or agreeing not to have 1 or either of those policies) in relation to rating units or separate rating areas located on Maori freehold land,

the responsible SPV and the responsible levy authority must have regard to the matters and objectives set out in Schedule 11 of the Local Government Act 2002, which applies with all necessary modifications.

- (1A) Section 114A of the Local Government (Rating) Act 2002 (remission of rates for Maori freehold land under development) applies to a levy under this Act.
- (1B) However, the responsible levy authority may remit a levy under section 114A of the Local Government (Rating) Act 2002 only with the consent of the responsible SPV.
- (2) In this section, **Maori freehold land** has the same meaning as in section 11(2).

Section 77(1): amended, on 1 July 2021, by section 67(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 77(1A): inserted, on 13 April 2021, by section 67(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 77(1B): inserted, on 13 April 2021, by section 67(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

78 Remission of levy

- (1) The responsible levy authority must remit all or part of the levy on a rating unit or separate rating area in accordance with the levy remission policy agreed under section 76.
- (2) The authority must give notice to the levypayer identifying the remitted levy.
- (3) The authority must record the remitted levy—
- (a) on the rates record for the rating unit or separate rating area as paid on the due date; and
 - (b) in accounting documents as paid by the responsible SPV on behalf of the levypayer in accordance with the relevant objective in the remission policy.

Section 78(1): amended, on 1 July 2021, by section 68 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 78(3)(a): amended, on 1 July 2021, by section 68 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

79 Postponement of requirement to pay levy

- (1) The responsible levy authority must postpone the requirement to pay all or part of the levy on a rating unit in accordance with the levy postponement policy agreed under section 76.
- (2) The authority must give notice to the levypayer—
- (a) identifying the postponed levy; and
 - (b) stating when, or in which circumstances, the levy will become payable.
- (3) The sections of the Local Government (Rating) Act 2002 that are set out in subsection (4) apply to the postponement of the requirement to pay a levy.
- (4) The sections are—

- (a) section 88 (postponement fee may be added to postponed rates):
- (b) section 89 (recording postponed rates):
- (c) section 90 (postponed rates may be registered as charge on rating unit), except that section 90(3)(a) applies as if it referred to the chief executive or other authorised officer of the responsible SPV.

Write-off of levy

Heading: inserted, on 1 July 2021, by section 69 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

79A Write-off of levy

- (1) This section applies if—
 - (a) there is an unpaid levy under this Act in respect of a rating unit or separate rating area; and
 - (b) the chief executive of the responsible levy authority intends to write off rates in respect of that unit or separate rating area under section 90A or 90B of the Local Government (Rating) Act 2002.
- (2) The responsible levy authority must notify the responsible SPV—
 - (a) that the chief executive will write off the rates; and
 - (b) whether the chief executive is doing so on an application under section 90A(2)(b) of the Local Government (Rating) Act 2002.
- (3) On receiving the notice, the responsible SPV may write off any unpaid levy—
 - (a) that the responsible SPV considers cannot reasonably be recovered; or
 - (b) to which section 90B(1)(a) and (b) of the Local Government (Rating) Act 2002 applies.
- (4) The responsible SPV must—
 - (a) notify a levypayer of any write-off of the levypayer's levy under this section; and
 - (b) within 30 days of receiving a notice under subsection (2)(b) that the chief executive will write off rates on the application of a ratepayer under section 90A(2)(b), provide written reasons to the levypayer for the decision to write off, or not to write off, the levypayer's levy.

Section 79A: inserted, on 1 July 2021, by section 69 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Recovery of unpaid levy

80 Recovery under Local Government (Rating) Act 2002

The responsible levy authority may recover unpaid levy under sections 61, 62, 75A, 75B, 83A, 83B, and 84 of the Local Government (Rating) Act 2002.

81 Recovery action in relation to Maori freehold land

The responsible levy authority may take recovery action in relation to unpaid levy and unpaid rates payable on Maori freehold land and the provisions of Part 4 of the Local Government (Rating) Act 2002 apply to that recovery.

Subpart 3—When responsible SPV recovers unpaid levy

82 Recovery action generally

- (1) The responsible SPV may take recovery action under Part 3 of the Local Government (Rating) Act 2002 in relation to unpaid levy if the responsible levy authority informs the SPV under section 57(2)(a) that the authority will not recover that unpaid levy.
- (2) The following sections of the Local Government (Rating) Act 2002, as further modified in accordance with sections 83 to 85 of this Act, apply to that recovery:
 - (a) section 61 (default by person other than owner):
 - (b) section 62 (recovery of rates if owner in default):
 - (ba) section 62A (person actually using certain abandoned general land liable for rates):
 - (c) section 63 (legal proceedings to recover rates):
 - (d) section 64 (service of summons):
 - (e) section 65 (limitation of time for recovery of rates):
 - (f) section 66 (registration of charging order for judgment for rates):
 - (g) section 67 (enforcement of judgment):
 - (h) section 68 (rating sale or lease):
 - (i) section 69 (service of notice):
 - (j) section 70 (rating unit may be sold or leased):
 - (k) section 71 (how rating sale or lease must be conducted):
 - (l) section 72 (further powers and duties of Registrar):
 - (m) section 73 (execution of documents for rating sale or lease):
 - (n) section 74 (presumption of valid rating sale or lease):
 - (o) section 75 (application of proceeds of rating sale or lease):
 - (p) section 76 (application of balance of proceeds):
 - (q) section 84 (Crown land held on lease or licence).

Section 82(2)(ba): inserted, on 13 April 2021, by section 70 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

83 Legal proceedings to recover levy

- (1) A responsible SPV may commence proceedings to recover as a debt due a levy that remains unpaid for 4 months after the due date for payment.
- (2) Sections 62A to 76 (other than sections 75 to 75B) of the Local Government (Rating) Act 2002 apply to those proceedings.
- (3) Section 84 of this Act applies instead of sections 75 to 75B of the Local Government (Rating) Act 2002.

Section 83(2): amended, on 13 April 2021, by section 71 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

84 Application of proceeds of rating sale or lease that involves levy

- (1) This section applies to the proceeds of a sale or lease under section 71 or 72 of the Local Government (Rating) Act 2002.
- (2) Those proceeds must be applied in the following order:
 - (a) the Registrar's fee (unless the fee has already been paid):
 - (b) the judgment, and any interest, costs, and disbursements:
 - (c) any other unsatisfied judgment for a levy for the same rating unit, with any interest, costs, and disbursements:
 - (d) any other levy due at the date of the sale or lease of the same rating unit, whether or not that levy is still recoverable under section 65 of the Local Government (Rating) Act 2002 (including, in the case of a lease, the levy (if any) that is or becomes due on the unit from the person on whose behalf the unit was leased while the Registrar received rents from it):
 - (e) any encumbrance on the rating unit:
 - (f) any other unsatisfied judgment for a levy on other rating units in the district (if the person against whom the judgment is entered is the levypayer of other rating units), with any interest, costs, and disbursements:
 - (g) any other levy due at the date of the sale or lease for other rating units owned by that person, whether or not the other levy is outside the period of limitation specified in section 65 of the Local Government (Rating) Act 2002.
- (3) For the purposes of subsection (2)(d), if levies are imposed under more than 1 levy order, the proceeds of sale that are applied to the levies must be applied in the order in which those orders were made.

85 Recovery action in relation to Māori freehold land

The responsible SPV may take recovery action in relation to unpaid levy payable on Māori freehold land, and the provisions of Part 4 of the Local Government (Rating) Act 2002 apply to that recovery.

86 Responsible levy authority must give information to responsible SPV

The responsible levy authority must make available to the responsible SPV all information necessary to enable the SPV to recover unpaid levy under this subpart.

Part 4

Other operational and financial matters

87 Outline of this Part

- (1) This Part provides for matters relating to the operations of an SPV and the financing of the construction of eligible infrastructure.
- (2) Subpart 1 imposes ongoing duties on the responsible SPV.
- (3) Subpart 2 provides for the disposal of excess levy at the end of a levy period and the use of previous development contributions and environmental contributions.
- (4) Subpart 3 gives statutory powers to an SPV that is responsible for the construction of eligible infrastructure.
- (5) Subpart 4 provides for account-keeping and reporting by an SPV and other financial matters.

Section 87(3): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Subpart 1—SPV’s ongoing duties

88 Levy collected must not exceed maximum levy revenue

A responsible SPV must ensure that the amount of levy collected over the levy period under a levy order does not exceed the maximum levy revenue.

89 Levy revenue must be applied only to pay eligible costs

A responsible SPV may apply levy revenue only to pay eligible costs authorised by the levy order (or otherwise as expressly permitted or required by this Act).

90 Eligible infrastructure vested in responsible infrastructure authority

- (1) A responsible SPV and the responsible infrastructure authority must enter into a vesting agreement that specifies the circumstances and conditions for the transfer of eligible infrastructure to the responsible infrastructure authority.
- (2) A vesting agreement must include all specified conditions required by the responsible infrastructure authority under section 20(4), other than any condition the responsible infrastructure authority modifies or waives.

- (3) The responsible SPV must transfer eligible infrastructure to the responsible infrastructure authority, and the authority must accept the transfer, in accordance with that agreement.

Subpart 2—Excess levy, uncollected levy, and previous contributions

Excess levy at end of levy period

91 Excess levy at end of levy period

- (1) A responsible SPV must pay any excess levy to the responsible levy authority.
- (2) If the total amount of excess levy is equal to or greater than the excess levy threshold under section 92 at the end of the levy period, the responsible levy authority must—
- (a) credit the rates record of each affected rating unit or separate rating area with the amount that reflects the amount of excess levy; and
 - (b) in apportioning the amount to be credited to rates records, apply the same method as was most recently used to assess levypayers' levy liability under the levy order.
- (3) If the total amount of excess levy is less than the excess levy threshold under section 92, the responsible levy authority may retain the excess levy.

Section 91(2)(a): amended, on 1 July 2021, by section 72 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

92 Excess levy threshold

- (1) For the purposes of section 91, **excess levy threshold** means an amount calculated, as at the end of the levy period, in accordance with the following formula:

$$r \times \$e = \$t$$

where—

r is the number of levypayers

$\$e$ is \$50 or the increased amount most recently published by the monitor under this section (if any)

$\$t$ is the excess levy threshold.

- (2) The monitor must, before the start of each levy year after the commencement of this Act (unless $\$e$ would not be increased as a result of paragraph (a)),—
- (a) increase the amount of $\$e$ by a percentage that reflects the upward movement (if any) in the index number of the Consumers Price Index for the year ending on the previous 31 March; and
 - (b) publish the increased $\$e$.
- (3) In this section, **Consumers Price Index** means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be pub-

lished, any measure certified by the Government Statistician as being equivalent to that index.

Section 92(2)(a): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 92(3): inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Uncollected levy at end of levy period

93 Responsible SPV may assign uncollected levy to responsible levy authority

- (1) The responsible SPV may enter an agreement with the responsible levy authority under which the SPV assigns to the authority the SPV's right to any amount of levy that is uncollected at the end of the levy period.
- (2) If an agreement is entered, the relevant provisions of the Local Government (Rating) Act 2002 apply to the collection and recovery of the uncollected levy in the same way that they apply in relation to rates under that Act.
- (3) In this section, levy is **uncollected** if—
 - (a) payment of the levy is due but the levy is unpaid; or
 - (b) the requirement to pay the levy has been postponed in accordance with a levy postponement policy.

Previous development contributions and environmental contributions

Heading: amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

94 Application and interpretation

- (1) This section and sections 95 to 98 apply if the responsible levy authority has, before the levy order comes into force, received (or required but not yet received) previous contributions in relation to any eligible infrastructure.
- (2) In this section and sections 95 to 98, **previous contribution** means either or both of the following:
 - (a) a development contribution under subpart 5 of Part 8 of the Local Government Act 2002 in relation to any eligible infrastructure (or any infrastructure that includes eligible infrastructure):
 - (b) an environmental contribution that was a condition under section 295 of the Natural and Built Environment Act 2023 on the grant of resource consent in relation to any eligible infrastructure (or any infrastructure that includes eligible infrastructure).

Section 94(2)(b): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

95 Responsible levy authority to inform responsible SPV about previous contributions

- (1) As soon as practicable after the relevant levy order comes into force, the responsible levy authority must give the responsible SPV a list of previous contributions.
- (2) The list of previous contributions must, so far as information available to the responsible levy authority allows,—
 - (a) identify the eligible infrastructure to which contributions relate; and
 - (b) identify amounts or proportions of each contribution that relate to eligible infrastructure and other infrastructure; and
 - (c) identify amounts or proportions of each contribution that relate to specific rating units or separate rating areas.

Section 95(2)(c): amended, on 1 July 2021, by section 73 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

96 Responsible SPV may direct responsible levy authority to transfer previous contributions and remit levies

- (1) The responsible SPV may, by written notice sent within 60 days after receiving a list of previous contributions, direct the responsible levy authority—
 - (a) to transfer the total amount of previous contributions to the responsible SPV as a contribution to the construction costs of eligible infrastructure; and
 - (b) to remit some or all of the levies on a rating unit or separate rating area so that the levy payable (if any) is the proportion of levy, calculated in accordance with the formula in subsection (3), that remains payable after taking account of those previous contributions.
- (2) The responsible levy authority must comply with those directions, and sections 85(2) and 86 of the Local Government (Rating) Act 2002 apply to the remission of the levy.
- (3) The proportion of levy for the purposes of subsection (1)(b) is calculated in accordance with the following formula:

$$p = (a - b)/(c - d)$$

where—

- p is the proportion of the levy that is payable
- a is the expected costs of construction of eligible infrastructure to which previous contributions do not relate
- b is the amount of all capital contributions to factor ‘a’ from sources other than the responsible SPV
- c is the expected costs of construction of the eligible infrastructure

- d is the amount of all capital contributions to factor ‘c’ from sources other than the responsible SPV, including previous contributions transferred to the responsible SPV in accordance with a direction under subsection (1)(a).
- (4) In this section, **costs of construction**, in relation to eligible infrastructure, means the costs of the construction of that infrastructure that are set out in section 9(3).

Section 96(1)(b): amended, on 1 July 2021, by section 74 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

97 Responsible levy authority must refund or return previous contributions if no direction

If the responsible SPV does not make a direction under section 96, the responsible levy authority must refund or return the amount of the previous contribution identified in respect of each rating unit or separate rating area in the list of previous contributions to the current ratepayer for that rating unit or separate rating area.

Section 97: amended, on 1 July 2021, by section 75 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

98 Sections 209 and 210 of Local Government Act 2002 do not apply to those previous contributions

Sections 209 and 210 of the Local Government Act 2002 do not apply to previous contributions—

- (a) transferred to an SPV under section 96; or
- (b) refunded or returned to ratepayers under section 97.

Subpart 3—SPV’s powers relating to construction

Powers relating to private land

99 Power to construct eligible infrastructure on private land

- (1) This section applies to eligible infrastructure only if a levy order applies this section (*see* section 34(g)(i)).
- (2) A responsible SPV may exercise the powers of a local authority or a territorial authority under section 181 of the Local Government Act 2002 for the construction of eligible infrastructure in a levy area (and, for that purpose, section 181 and Schedule 12 of that Act apply with all necessary modifications).

Powers relating to roads and public land

100 Powers to construct water services infrastructure on roads and public land

- (1) This section and sections 101 to 105 apply only if applied by a levy order (*see* section 34(g)(ii)).

- (2) For the purposes of providing water services infrastructure in the levy area, the responsible SPV may—
- (a) construct, place, and maintain eligible infrastructure that is water services infrastructure in, on, along, over, across, or under any road or public land within or outside the levy area; and
 - (b) for the purposes of any work carried out under paragraph (a), open or break up any road or public land; and
 - (c) alter, repair, or remove that infrastructure or any part of that infrastructure.
- (3) However, the responsible SPV must exercise the powers under subsection (2) in accordance with any conditions that the person who has jurisdiction over the road or land imposes.

Compare: 2009 No 32 s 65

101 Notice requirement

- (1) Before a responsible SPV proceeds to open or break up any road or public land under section 100(2)(b), the SPV must give to the person who has jurisdiction over the road or land written notice of the intention to carry out the work.
- (2) Subsection (1) is subject to section 104.
- (3) Every notice must specify the location of the proposed work, the nature of the work to be carried out, and the reasons for it.

Compare: 2009 No 32 s 66

102 Responsible SPV to be notified of conditions

- (1) The person who has jurisdiction over the road or land must notify the responsible SPV in writing of any conditions imposed under section 100(3).
- (2) Notification must be given not later than the day that is 20 working days after the person receives written notice of the intention to carry out work.

Compare: 2009 No 32 s 67

103 Failure to notify conditions

If the person who has jurisdiction over the road or land fails to notify the responsible SPV in accordance with section 102, the conditions are not imposed and the SPV may commence work.

Compare: 2009 No 32 s 68

104 Urgency

If work is urgent and necessary because of any defective equipment or other emergency, a responsible SPV—

- (a) is excused from giving notice under section 101(1) before commencing the work; but

- (b) must give the information required by section 101(3) to the person who has jurisdiction over the road or land as soon as practicable after commencing the work.

Compare: 2009 No 32 s 69

105 Appeal by responsible SPV to District Court

- (1) A responsible SPV may appeal to the District Court against any condition imposed under section 100(3) on the grounds that the condition is unreasonable.
- (2) An appeal must be made not later than the day that is 45 working days after the date of notification of the conditions imposed, or within any further time that the District Court may allow.
- (3) In its determination of any appeal, the District Court may confirm, modify, or cancel the condition.
- (4) The decision of the District Court in the determination of an appeal under this section is final.

Compare: 2009 No 32 s 70

Subpart 4—Other financial matters

Accounting records and reporting

106 Definitions

In this subpart,—

applicable auditing and assurance standard has the same meaning as in section 5(1) of the Financial Reporting Act 2013

financial statements has the same meaning as in section 6 of the Financial Reporting Act 2013

generally accepted accounting practice has the same meaning as in section 8 of the Financial Reporting Act 2013

qualified auditor has the same meaning as in section 35 of the Financial Reporting Act 2013

registered bank has the same meaning as in section 2(1) of the Banking (Prudential Supervision) Act 1989.

Section 106 **registered bank**: amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

107 Levy account

A responsible SPV must—

- (a) pay levy revenue, as soon as practicable after it is received, into an account with a registered bank; and

- (b) until the levy revenue is used to pay an eligible cost or otherwise paid as permitted by this Act, ensure that the levy revenue is held separate from other money held by or on behalf of the responsible SPV.

108 Accounting records

- (1) An SPV must ensure that there are kept at all times accounting records that—
 - (a) correctly record the SPV's transactions; and
 - (b) will at any time enable the SPV's financial position to be determined with reasonable accuracy; and
 - (c) will enable the SPV to ensure that its financial statements comply with this Act; and
 - (d) will enable the SPV's financial statements to be readily and properly audited.
- (2) The SPV must establish and maintain a satisfactory system of control of its accounting records.
- (3) The accounting records must be kept—
 - (a) in written form; or
 - (b) in a manner in which they are easily accessible and convertible into written form.

109 Financial statements

An SPV must ensure that, within 4 months after the end of each levy year, financial statements that comply with generally accepted accounting practice are completed in relation to the SPV and that levy year.

110 Audit

- (1) An SPV must ensure that its financial statements are audited by a qualified auditor.
- (2) An auditor must, in carrying out an audit for that purpose, comply with all applicable auditing and assurance standards.

111 Annual report

- (1) An SPV must,—
 - (a) as soon as practicable after the end of each levy year, prepare an annual report on the operations of the SPV; and
 - (b) provide the annual report to the monitor within 4 months after the end of each levy year.
- (2) The monitor must publish the annual report.

112 Content of annual report

- (1) An SPV's annual report must contain—

- (a) the information that is reasonably necessary to enable an informed understanding of the SPV's operations during the levy year to which it relates; and
 - (b) audited financial statements for that levy year for the SPV; and
 - (c) the auditor's report on those financial statements.
- (2) The annual report must include the following information for the levy year to which it relates:
- (a) eligible costs incurred, itemised as in the levy order:
 - (b) all other costs incurred by the SPV:
 - (c) if the SPV is entitled to levy revenue,—
 - (i) the annual levy:
 - (ii) the actual levy revenue collected:
 - (iii) in relation to the levy account required by section 107,—
 - (A) the opening balance of the account for the levy year; and
 - (B) interest earned on funds held in the account; and
 - (C) the closing balance at the end of the levy year:
 - (d) how the closing balance referred to in paragraph (c)(iii)(C) will be applied to eligible costs in the future:
 - (e) in relation to forecast excess levy,—
 - (i) every forecast of excess levy; and
 - (ii) every decision to reduce the maximum levy revenue by reducing the levy period or the levies payable in later levy years:
 - (f) any additional information required by the monitor under section 113.

113 Additional information required by monitor

- (1) For the purposes of section 112(2)(f), the monitor may (by written notice at least 4 months before the start of a levy year) require an SPV to include additional information in its annual report for that year.
- (2) The monitor must publish any requirement given under this section.

Limitations on support given to SPV

114 Support from responsible levy authority or responsible infrastructure authority

- (1) A responsible levy authority or a responsible infrastructure authority must not give to any person any guarantee, indemnity, or security in relation to the performance of any obligation by an SPV.
- (2) A responsible levy authority must not lend money or provide credit to an SPV.
- (3) In this section, **lend money or provide credit**—

- (a) includes—
- (i) to defer payment for any goods or services supplied or works constructed for any person, organisation, or government; and
 - (ii) to enter into hire purchase agreements or agreements that are of the same or a substantially similar nature; and
 - (iii) to enter into finance lease arrangements or arrangements that are of the same or a substantially similar nature; and
 - (iv) to subscribe for any debt securities or uncalled capital; but
- (b) does not include to sell or supply goods or services on credit in the ordinary course of the authority's performance of its lawful responsibilities and on terms and conditions generally available to other parties of equivalent creditworthiness.

Compare: 1989 No 44 s 65K; 2002 No 84 ss 62, 112

115 Crown liability generally

- (1) The Crown is not liable to contribute to the payment of any debts or liabilities of an SPV.
- (2) This section does not apply to a liability for any sum of a kind described in section 49(2) of the Public Finance Act 1989.

Compare: 2002 No 84 s 121

116 Crown liability under certain contracts and arrangements

- (1) If an SPV is named as issuer or is otherwise named with its consent in a disclosure document, that document must contain a statement that the financial products being offered under the document are not guaranteed by the Crown.
- (2) Subsection (1) does not apply if the financial products offered under the document are expressly guaranteed by the Crown under the Public Finance Act 1989.
- (3) If an SPV enters into a loan agreement or an incidental arrangement, that agreement or arrangement must state that the loan or other liability under the agreement or arrangement is not guaranteed by the Crown.
- (4) Subsection (3) does not apply to any liability for any sum of a kind described in section 49(2) of the Public Finance Act 1989.
- (5) In this section,—

disclosure document means a product disclosure statement (as defined by section 6(1) of the Financial Markets Conduct Act 2013) or a disclosure document under clause 26 of Schedule 1 of that Act

incidental arrangement and **loan** have the same meanings as in section 112 of the Local Government Act 2002.

Compare: 2002 No 84 s 122

Part 5

Monitoring, remedies, enforcement, and miscellaneous

117 Outline

- (1) This Part provides for miscellaneous matters.
- (2) Subpart 1 provides for—
 - (a) monitoring of an SPV by the monitor:
 - (b) the ability of the monitor to recommend that a Crown Manager be appointed for an SPV if there are significant problems that are not addressed.
- (3) Subpart 2 provides for the appointment and role of the Crown Manager.
- (4) Subpart 3 provides for modification of the usual rules for receivership of an SPV and for creditors.
- (5) Subpart 4 provides for enforcement and offences.
- (6) Subpart 5 provides for miscellaneous matters.
- (7) Subpart 6 contains amendments to other Acts.

Subpart 1—Role of monitor

118 Appointment of monitor

- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, appoint a government agency as monitor for the purposes of this Act.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 118(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

119 Functions, duties, and powers

- (1) The monitor's functions are to—
 - (a) publish information about the levy scheme and about specific levy areas, levy orders, and SPVs; and
 - (b) determine any objection by a levypayer to an assessment of the levypayer's levy liability; and

- (c) monitor an SPV's compliance with this Act and the levy order; and
 - (d) inquire into, and intervene in, an SPV's operations in accordance with this Act.
- (2) In addition, the monitor may exercise all powers that are—
- (a) conferred on the monitor by this Act; or
 - (b) reasonably necessary for the performance of the monitor's functions and duties.

120 Monitor must publish information

- (1) The monitor must publish general information about the levy scheme established by this Act, to enhance public understanding of how a levy order applies to a levy area and how levy liability applies to rating units.
- (2) In addition, the monitor must publish information about a specific levy area, levy order, and responsible SPV, including—
- (a) the annual levy resolution of the SPV for each levy year;
 - (b) the SPV's annual reports;
 - (c) information to assist levypayers to understand their levy liability and potential levypayers to understand how levy liability is assessed under this Act.

121 Information and assistance

- (1) The monitor may direct a responsible SPV or a responsible levy authority to give the monitor any information or other assistance that the monitor considers to be reasonably necessary for the performance of the monitor's functions and duties and the exercise of the monitor's powers (including all information requested by the monitor from the authority's rating information database and rates records).
- (2) The SPV or authority must comply with the direction.

122 Restricted change of control of SPV

- (1) This section applies if a restricted change of control occurs.
- (2) The monitor may direct the SPV not to pay any specified distributions to prohibited persons, and the SPV must comply with that direction.
- (3) In this section,—

distribution means any distribution by a company or limited partnership, or other payment of a similar nature to a distribution

prohibited person means a person who, as a result of a restricted change of control occurring, becomes a shareholder, partner, or other person with an interest or a right to participate in any capital, assets, earnings, or other property of the SPV

restricted change of control means a change of control as defined by the levy order for the purposes of this section (*see* section 34(e)).

123 Inquiry into SPV's operations

The monitor may inquire into any aspect of an SPV's operations if the monitor—

- (a) reasonably believes that a significant problem relating to the SPV could exist; or
- (b) has any concern relating to any matter that could potentially become a significant problem relating to the SPV.

124 Monitor may give direction or request remedial plan

- (1) This section applies whether or not the monitor has conducted an inquiry under section 123.
- (2) If the monitor reasonably believes that a significant problem relating to a responsible SPV exists, the monitor must direct the SPV—
 - (a) to address the significant problem; or
 - (b) to prepare a remedial plan for addressing the significant problem.
- (3) A direction must—
 - (a) be in writing; and
 - (b) describe the significant problem to be addressed; and
 - (c) state the date by which the significant problem must be addressed; and
 - (d) in the case of a direction under subsection (2)(a), state how the significant problem must be addressed.
- (4) The responsible SPV must comply with a direction given under this section.
- (5) If the monitor is satisfied that a remedial plan prepared by the SPV will address the significant problem,—
 - (a) the monitor may accept the plan; and
 - (b) the SPV must address the significant problem in accordance with the plan that is accepted.
- (6) If the monitor is not satisfied that a remedial plan prepared by the responsible SPV will address the significant problem, the monitor must give a direction to the SPV under subsection (2)(a).
- (7) The preparation of a remedial plan does not prevent the monitor from giving a direction under subsection (2)(a).

125 Monitor may recommend appointment of Crown Manager

If a responsible SPV fails to address a significant problem in accordance with section 124, the monitor may recommend to the responsible Minister that a Crown Manager be appointed to the SPV.

Subpart 2—Role of Crown Manager

126 Responsible Minister may appoint Crown Manager

- (1) The responsible Minister may, by notice, appoint a person as Crown Manager to a responsible SPV if—
 - (a) the responsible Minister reasonably believes that a significant problem with the responsible SPV exists; and
 - (b) the monitor has recommended that a Crown Manager be appointed.
- (2) The notice of appointment must include—
 - (a) the purpose of the appointment, including—
 - (i) an outline of the problem in relation to which the Crown Manager has been appointed; and
 - (ii) the extent of the Crown Manager’s authority; and
 - (b) the start and end dates of the Crown Manager’s appointment; and
 - (c) the start and end dates of the management period.
- (3) In addition, the notice of appointment may include limits or conditions on—
 - (a) the functions and duties to be performed, and the powers to be exercised, by the Crown Manager; and
 - (b) how those functions and duties are to be performed, and how those powers are to be exercised.
- (4) The responsible Minister must notify the appointment of a Crown Manager—
 - (a) to the responsible SPV; and
 - (b) in the *Gazette*.

127 Functions, duties, and powers of Crown Manager

- (1) A Crown Manager must perform the functions and duties and exercise the powers of the responsible SPV under this Act—
 - (a) in accordance with this Act and the levy order; and
 - (b) subject to any limits or conditions on the Crown Manager’s role set out in the notice of appointment under section 126.
- (2) The functions and powers of a Crown Manager include all matters for which the responsible SPV is responsible under this Act.
- (3) The Crown Manager may—
 - (a) work with the board of directors or other governing body of the SPV or act to their exclusion; or
 - (b) give directions to the board or other governing body.
- (4) The board of directors or other governing body of the SPV—

- (a) must co-operate with the Crown Manager, including by complying with any directions given by the Crown Manager; and
- (b) remains responsible for the general operation of the SPV.

128 Information to responsible Minister and monitor

- (1) A Crown Manager must inform the responsible Minister and the monitor about—
 - (a) the steps being taken to address the significant problem; and
 - (b) the progress of those steps.
- (2) The monitor, if satisfied that the significant problem has been addressed, must inform the responsible Minister.

129 Termination of appointment

- (1) The responsible Minister may terminate the appointment of a Crown Manager at any time.
- (2) No compensation is payable to the Crown Manager in relation to the termination of their appointment.

130 Protection from liability

The Crown Manager is not liable for any act done in good faith in the performance or intended performance of their functions or duties or the exercise of their powers.

131 Costs of Crown Manager

- (1) A responsible SPV owes as a debt to the Crown any costs that the Crown incurs for the appointment of a Crown Manager to the SPV, including the payment of remuneration and expenses to the Crown Manager.
- (2) The SPV must not pay those costs by increasing the levy or extending the levy period.

132 Remuneration and expenses of Crown Manager

- (1) A Crown Manager is entitled—
 - (a) to receive remuneration for services as determined by the responsible Minister in accordance with the fees framework; and
 - (b) to be reimbursed, in accordance with the fees framework, for actual and reasonable travelling and other expenses incurred in performing their functions.
- (2) In this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

Subpart 3—Modified rights and remedies for creditors

133 General law applies with some modifications

Except as set out in this subpart, the usual rights and remedies available to creditors apply in relation to SPVs.

Modification of Receiverships Act 1993 for SPVs

134 Application of Receiverships Act 1993

The Receiverships Act 1993 applies to a receiver of an asset of an SPV appointed under this subpart with the modifications set out in this subpart.

135 Receiver appointed under instrument

- (1) This section applies if an SPV gives a charge over any asset of the SPV as security for any loan or for the performance of any obligation.
- (2) The instrument that creates or evidences the terms and conditions of the charge may provide for the appointment of a receiver of that asset on terms agreed by the parties.
- (3) This section applies subject to the Personal Property Securities Act 1999, and does not limit any other rights or remedies of the holder of a charge over any asset of an SPV.

Compare: 1993 No 122 s 40A

136 Receiver appointed by court

- (1) The court may, on application by any creditor of a responsible SPV, appoint a receiver to exercise the powers, and perform the functions, of the SPV under this Act in relation to a levy.
- (2) The court must, as it considers appropriate, specify—
 - (a) the term of the appointment; and
 - (b) the rights, powers, and duties of the receiver; and
 - (c) the terms and conditions of the appointment, including terms about security and remuneration.
- (3) Before appointing a receiver, the court must have regard to—
 - (a) the interests of all of the responsible SPV's creditors (whether secured or unsecured); and
 - (b) the interests of the levypayers; and
 - (c) the role of the receiver under this subpart.
- (4) This section does not limit the proceedings that may be brought against an SPV or the circumstances in which a court may appoint a receiver of an SPV's other assets.

- (5) This section is subject to sections 140 and 141.

Compare: 1993 No 122 s 40B

137 Powers of receiver

- (1) This section applies if—
- (a) a responsible SPV has charged levy revenue as security for any loan or for the performance of any obligation; and
 - (b) a receiver has been appointed under section 135 or 136 in respect of that loan or obligation.
- (2) From the date of the receiver's appointment until the termination of that appointment, all powers of the responsible SPV that relate to a levy under this Act are conferred on, and may be exercised by, the receiver.
- (3) The receiver may exercise the SPV's powers as agent of the responsible SPV.
- (4) Section 13 of the Receiverships Act 1993 is subject to section 139(3) of this Act (which limits the exercise of those powers in relation to assets not charged in favour of the appointor of the receiver).

Compare: 1993 No 122 s 40C(3), Schedule 1 cl 8; 2002 No 84 s 115

138 General duties of receiver

The general duties imposed on receivers by section 18 of the Receiverships Act 1993 are subject to the constraints imposed on receivers by section 139(1).

Compare: 1993 No 122 Schedule 1 cl 10

139 Constraints on receiver

- (1) A receiver appointed in relation to a responsible SPV or an asset of a responsible SPV must ensure that no action of the receiver prevents any activities of that SPV, any other SPV, or the responsible infrastructure authority that are essential for the maintenance of public health and safety, regardless of anything in—
- (a) this Act or the Receiverships Act 1993; and
 - (b) any instrument providing for or governing the appointment of the receiver.
- (2) An action of the receiver is only to be taken to prevent an activity of the responsible SPV, any other SPV, or the responsible infrastructure authority if—
- (a) the action necessarily results in that outcome; and
 - (b) the outcome is not more fairly attributable to the act or omission of a person outside the receiver's control.
- (3) In exercising any powers (including those of a manager), the receiver is not entitled to control, dispose of, or otherwise interfere with the ability of the responsible SPV, any other SPV, or the responsible infrastructure authority to

exercise or perform its rights, powers, and duties in relation to assets not charged in favour of the appointor of the receiver.

- (4) A receiver appointed under a charge instrument or by the court must distribute the proceeds of collection and recovery of the money and assets the receiver is entitled to collect and recover in the following order of priority:
- (a) any amounts required for the receiver's remuneration, costs incurred by the receiver, and the costs incurred by any person in obtaining the receiver's appointment:
 - (b) any amounts payable in respect of claims by law to be preferred to claims under any charge over those assets:
 - (c) any amounts required to be paid out of the proceeds of collection of the money and assets to enable the receiver to carry out the activities specified in subsection (1):
 - (d) the amounts secured by any charges over those assets in the order of priority accorded those charges, so as to preserve the respective entitlements of the holders of those charges:
 - (e) if the receiver was appointed by the court on the application of 1 or more unsecured creditors, any amounts payable, or directed by the court to be paid, to those creditors:
 - (f) any residue to, or for the benefit of, the responsible SPV as it directs.

Compare: 1993 No 122 s 40D

140 Protection of receiver

- (1) No proceedings lie against a receiver of a responsible SPV for any breach of section 139(1) by—
- (a) the receiver; or
 - (b) any adviser or delegate of the receiver.
- (2) No proceedings lie against an adviser or a delegate of a receiver for any breach of section 139, other than proceedings brought by the receiver.
- (3) A receiver (and any adviser or delegate) must be indemnified in accordance with subsections (4) and (5) in respect of any liability relating to the exercise, purported exercise, or omission to exercise any right or power of the receiver by the receiver (or the adviser or delegate).
- (4) A receiver appointed by the court (and any adviser or delegate) must be indemnified by the responsible SPV.
- (5) A receiver appointed under a charge document (and any adviser or delegate) must be indemnified out of the assets subject to receivership, unless the terms of the appointment of the receiver provide otherwise.
- (6) Subsections (1) and (3) do not apply to an act or omission of a person that constitutes bad faith or gross negligence.

- (7) This section does not limit or affect the operation of sections 19 and 20 of the Receiverships Act 1993.
- (8) In this section, **adviser or delegate**, in relation to a receiver, means an adviser or a delegate of the receiver who has been reasonably selected and whose activities have been reasonably supervised.

Compare: 1993 No 122 s 40E

141 Exception in relation to Crown Manager

If a Crown Manager is appointed under this Act in relation to a responsible SPV (either before or after a receiver is appointed under a charge instrument or by the court), the court may order that any receiver so appointed may not, until the court so orders, exercise any of the rights, powers, and duties of a receiver.

Compare: 1993 No 122 Schedule 1 cl 15

Limit on usual rules for creditors

142 Limit on usual rules for transactions and dispositions at under value

- (1) This section applies only if applied by a levy order (*see* section 34(g)(iii)).
- (2) Section 297 of the Companies Act 1993 does not apply to the relevant transactions (or any class of relevant transactions set out in a levy order) if a levy order applies this limit.
- (3) Subpart 6 of Part 6 of the Property Law Act 2007 does not apply to the relevant dispositions (or classes of relevant dispositions set out in a levy order) if a levy order applies this limit.
- (4) In this section, **relevant transaction** or **relevant disposition** means—
- (a) the transfer of eligible infrastructure by the responsible SPV to a responsible infrastructure authority under a vesting agreement; or
 - (b) the transfer by the responsible SPV (that is responsible for financing and funding the construction of eligible infrastructure) of money to finance the construction of eligible infrastructure to another SPV that is responsible for the construction of that infrastructure.

Subpart 4—Enforcement

Injunctions and compliance orders

143 Court may grant injunction

A court may, on application by the monitor, grant an injunction restraining an SPV from engaging in conduct that constitutes or would constitute a contravention, or involvement in a contravention, of this Act or a levy order.

144 When court may grant injunction

- (1) A court may grant an injunction restraining an SPV from engaging in conduct of a particular kind if—
 - (a) it is satisfied that the SPV has engaged in conduct of that kind; or
 - (b) it appears to the court that, if an injunction is not granted, it is likely that the SPV will engage in conduct of that kind.
- (2) The court may grant an interim injunction restraining an SPV from engaging in conduct of a particular kind if in its opinion it is desirable to do so.
- (3) Subsections (1)(a) and (2) apply whether or not it appears to the court that the SPV intends to engage again, or to continue to engage, in conduct of that kind.
- (4) Subsections (1)(b) and (2) apply whether or not the SPV has previously engaged in conduct of that kind or there is an imminent danger of substantial damage to any other person if the SPV engages in conduct of that kind.

145 No undertaking as to damages required

- (1) If the monitor applies to the court for the grant of an injunction, the court must not, as a condition of granting the injunction, require the monitor to give an undertaking as to damages.
- (2) In determining the monitor's application for the grant of an injunction, the court must not take into account the fact that the monitor is not required to give an undertaking as to damages.

Compare: 2013 No 69 s 482

146 Court may make compliance order

- (1) The court may, on application by the monitor, make an order (a **compliance order**) requiring an SPV to do 1 or more of the following:
 - (a) to comply with a provision of this Act or a levy order;
 - (b) to remedy non-compliance with the provision by another means;
 - (c) to avoid or mitigate any actual or likely effect of non-compliance with the provision.
- (2) The court may make a compliance order if it is satisfied that, by engaging in any conduct, the SPV has failed, or is likely to fail, to comply with a provision of this Act or the levy order.
- (3) The court may make a compliance order on any terms that it considers appropriate, including by specifying any reasonable steps that the SPV must take in order to comply with the order.

Civil liability and compensatory orders

147 Court may make civil liability order

- (1) A court may, on application by the monitor, make a civil liability order if the court is satisfied that a person has contravened or was involved in a contravention of this Act or a levy order.
- (2) A civil liability order may direct the person in contravention, or the person involved in the contravention, to refund money or return property to an SPV if the court is satisfied that the SPV has suffered, or is likely to suffer, loss or damage because of the contravention.

148 Court may make compensatory order

- (1) A court may, on application by the monitor, make a compensatory order if—
 - (a) the court is satisfied that—
 - (i) a person has contravened or was involved in a contravention of this Act or a levy order; and
 - (ii) the SPV has suffered, or is likely to suffer, loss or damage because of the contravention; and
 - (b) it appears to the court that a civil liability order under section 147 is not practicable in the circumstances.
- (2) The court may make any order it thinks just to compensate an SPV in whole or in part for the loss or damage, or to prevent or reduce the loss or damage.
- (3) An order under this section may include an order to direct a relevant person to do either or both of the following:
 - (a) to pay to the SPV the amount of the loss or damage (in whole or in part):
 - (b) to take other steps to avoid or mitigate any actual or likely loss or damage resulting from the contravention.
- (4) Subsection (3) does not limit subsection (2).
- (5) In this section, **relevant person** means—
 - (a) any person in contravention; or
 - (b) any person involved in the contravention.

149 Defences

- (1) In any proceeding under section 147 or 148 against a person (**A**) for a contravention of this Act or a levy order, it is a defence if A proves that—
 - (a) A's contravention was due to reasonable reliance on information supplied by another person; or
 - (b) both of the following apply:
 - (i) A's contravention was due to the act or default of another person, or to an accident or to some other cause beyond A's control; and

- (ii) A took reasonable precautions and exercised due diligence to avoid the contravention.
- (2) For the purposes of subsection (1)(a) and (b)(i), **another person** does not include a member of the board of directors or other governing body, an employee, or an agent of A.

Compare: 2013 No 69 s 499

150 Defences for person involved in contravention

- (1) This section applies if—
- (a) a person (A) contravenes this Act or a levy order; and
 - (b) another person (B) is involved in the contravention.
- (2) In any proceeding under section 147 or 148 against B for involvement in the contravention, it is a defence if B proves that—
- (a) B's involvement in the contravention was due to reasonable reliance on information supplied by another person; or
 - (b) B took all reasonable and proper steps to ensure that A complied with the relevant provision of this Act or the levy order.
- (3) For the purposes of subsections (1)(b) and (2)(a), **another person** does not include a member of the board of directors or other governing body, an employee, or an agent of A.

Compare: 2013 No 69 s 503

151 Meaning of involved in a contravention

In sections 147, 148, and 150, a person is **involved in a contravention** if the person—

- (a) has aided, abetted, counselled, or procured the contravention; or
- (b) has induced, whether by threats or promises or otherwise, the contravention; or
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

Compare: 2013 No 69 s 533

Offences

152 False statement or information

- (1) A person commits an offence if the person makes a statement or gives information for the purposes of this Act that is false or misleading in a material particular, knowing it to be false or misleading.
- (2) A person who commits an offence under this section is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000; and
- (b) in any other case, to a fine not exceeding \$15,000.

153 Refusal or failure to give information

- (1) A person commits an offence if the person refuses or fails, without reasonable excuse, to give any information that is in that person's possession or under that person's control when required under this Act to give the information.
- (2) A person who commits an offence under this section is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$2,000; and
 - (b) in any other case, to a fine not exceeding \$5,000.

154 Resistance, obstruction, or failure to comply with directions

- (1) A person commits an offence if the person, without reasonable excuse,—
 - (a) fails to comply with a direction given under this Act; or
 - (b) resists or obstructs any person who is acting in the performance of their functions or duties or in the exercise of their powers under this Act.
- (2) A person who commits an offence under this section is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$2,000; and
 - (b) in any other case, to a fine not exceeding \$5,000.

Subpart 5—Miscellaneous

Recommender

155 Appointment of recommender

- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, appoint a government agency as recommender for the purposes of this Act.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 155(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

156 Function of recommender

The recommender's function is to perform the role and duties and exercise the powers conferred and imposed on the recommender under subpart 1 of Part 2 to support the responsible Minister's consideration of a levy proposal.

*Delegations***157 Responsible levy authority may delegate**

A responsible levy authority may delegate the performance of its functions or duties or the exercise of its powers under this Act in accordance with section 132 of the Local Government (Rating) Act 2002.

158 Responsible SPV may delegate

- (1) A responsible SPV may delegate to an officer of the SPV the performance of its functions or duties or the exercise of its powers—
 - (a) under this Act; or
 - (b) in its capacity as a responsible SPV, under any other enactment.
- (2) This section does not authorise the delegation of—
 - (a) the power to delegate; or
 - (b) the SPV's functions, duties, and powers relating to the setting of an annual levy.
- (3) An officer to whom a function, duty, or power is delegated (the **delegate**) may, unless the delegation provides otherwise, perform the function or duty, or exercise the power, in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the SPV.
- (4) A delegation does not affect or prevent the performance of the delegated function or duty, or the exercise of the delegated power, by the SPV.
- (5) In this section, **officer**, in relation to an SPV, means—
 - (a) a named person; or
 - (b) the person who is for the time being the holder of a specified office.

159 Other provisions of Local Government (Rating) Act 2002 applied

The following provisions of the Local Government (Rating) Act 2002 apply in relation to a levy authorised under this Act:

- (a) section 133 (in certain cases Governor-General in Council may extend time or validate proceedings):
- (b) section 134 (Judge, etc, not interested merely by being ratepayer):
- (c) section 135 (evidence of certain matters):
- (d) section 136 (notification).

Courts

160 Jurisdiction of courts

The High Court has exclusive jurisdiction to hear and determine proceedings in New Zealand under this Act, other than—

- (a) appeals under section 105; and
- (b) proceedings for offences.

Compare: 2013 No 69 s 538

Subpart 6—Amendments to other Acts

161 Amendments to other Acts

Amend the enactments specified in Schedule 2 as set out in that schedule.

Schedule 1
Transitional, savings, and related provisions

s 5

Part 1
Provisions relating to this Act as enacted

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

Schedule 2 Amendments to other Acts

s 161

Companies Act 1993 (1993 No 105)

After section 297(3), insert:

- (4) This section does not apply to transactions to which the limit in section 142(2) of the Infrastructure Funding and Financing Act 2020 applies under a levy order made under that Act.

Goods and Services Tax Act 1985 (1985 No 141)

After section 5(7C), insert:

- (7F) For the purposes of this Act, when a person is liable to pay a levy set under section 40 of the Infrastructure Funding and Financing Act 2020 by a responsible SPV, as defined in section 7 of that Act, the levy is treated as being consideration for a supply of goods and services to the person by the responsible SPV.

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), definition of **public organisation**, after paragraph (f), insert:

- (g) a responsible SPV (as defined in section 7 of the Infrastructure Funding and Financing Act 2020)

Local Government Act 2002 (2002 No 84)

In section 5(1), insert in their appropriate alphabetical order:

eligible infrastructure has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020

levy area has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

levy order has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

protected Māori land has the same meaning as in section 11 of the Infrastructure Funding and Financing Act 2020

SPV means a responsible SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure

In section 5(1), replace the definition of **activity** with:

activity—

- (a) means goods or a service provided by, or on behalf of, a local authority or a council-controlled organisation; and

Local Government Act 2002 (2002 No 84)—continued

- (b) includes—
 - (i) the provision of facilities and amenities; and
 - (ii) the making of grants; and
 - (iii) the performance of regulatory and other governmental functions; and
- (c) also includes, in section 106, subpart 5 of Part 8, and Schedule 13, the construction of eligible infrastructure that has been, or is intended to be, transferred by a responsible SPV to a responsible infrastructure authority under section 90 of the Infrastructure Funding and Financing Act 2020

After section 106(6), insert:

- (7) In this section, **capital expenditure** includes any funding provided by a responsible levy authority to contribute to the construction costs of eligible infrastructure that has been, or is intended to be, transferred to the authority under section 90 of the Infrastructure Funding and Financing Act 2020.

After section 136(3), insert:

- (4) A contract entered into by a local government organisation is not a contract to which subsection (1) applies merely because the local government organisation agrees to any 1 or more of the following:
 - (a) to propose the use of a levy under the Infrastructure Funding and Financing Act 2020 to support the construction of eligible infrastructure;
 - (b) to carry out any aspect of the administration of a levy under that Act;
 - (c) the vesting of eligible infrastructure under that Act;
 - (d) to contribute to the construction costs of the eligible infrastructure.

After section 137(4), insert:

- (4A) An arrangement entered into by a local government organisation is not a joint arrangement or a joint local government arrangement to which this section applies merely because the arrangement includes doing any 1 or more of the following:
 - (a) proposing the use of a levy under the Infrastructure Funding and Financing Act 2020 to support the construction of eligible infrastructure;
 - (b) carrying out any aspect of the administration of a levy under that Act;
 - (c) the vesting of eligible infrastructure under that Act;
 - (d) contributing to the costs of the construction of the eligible infrastructure.

After section 173(2), insert:

- (3) A local authority may also use the powers in subsection (1) for the purpose of accessing eligible infrastructure under the control of an SPV under the Infrastructure Funding and Financing Act 2020.

Local Government Act 2002 (2002 No 84)—continued

In section 197(1), insert in its appropriate alphabetical order:

capital expenditure includes any funding provided by a responsible levy authority to contribute to the construction costs of eligible infrastructure that has been, or is intended to be, transferred to the authority under section 90 of the Infrastructure Funding and Financing Act 2020

In section 197AB, insert as subsection (2):

- (2) In subsection (1)(a), **assets** includes eligible infrastructure that has been, or is intended to be, transferred by a responsible SPV to a responsible infrastructure authority under section 90 of the Infrastructure Funding and Financing Act 2020.

After section 201A(1)(d), insert:

- (e) if the asset is eligible infrastructure that has been, or is intended to be, transferred by a responsible SPV to a responsible infrastructure authority under section 90 of the Infrastructure Funding and Financing Act 2020, the proportion of the capital cost to be funded by a levy under that Act and from other sources.

Local Government (Auckland Council) Act 2009 (2009 No 32)

After section 57(2), insert:

- (3) An Auckland water organisation does not breach its obligation under subsection (1)(a) merely by—
- (a) giving an infrastructure endorsement under section 20 of the Infrastructure Funding and Financing Act 2020; or
 - (b) accepting a transfer of eligible infrastructure under section 90 of that Act; or
 - (c) contributing funding to the construction of eligible infrastructure that has been, or is intended to be, transferred to that organisation under that section.

Local Government Official Information and Meetings Act 1987 (1987 No 174)

After section 44A(2)(c), insert:

- (ca) if the land concerned is located in a levy area that is subject to a levy order under the Infrastructure Funding and Financing Act 2020, information about—
- (i) the levy period;
 - (ii) how liability for a levy on the land is assessed;
 - (iii) amounts of any unpaid levy;

Local Government (Rating) Act 2002 (2002 No 6)

After section 75, insert:

*Legal proceedings to recover unpaid levies with unpaid rates***75A Unpaid levy under Infrastructure Funding and Financing Act 2020**

- (1) This section applies if rates and a levy remain unpaid 4 months after the due date for payment.
- (2) Sections 63 to 76 (other than section 75) apply to the recovery of both debts in the same legal proceedings—
 - (a) as if any reference in those sections to—
 - (i) the local authority included a reference to the responsible levy authority; and
 - (ii) rates included a reference to a levy; and
 - (iii) a ratepayer included a reference to a levypayer; and
 - (b) with all other necessary modifications.
- (3) Section 75B applies instead of section 75.
- (4) In this section and section 75B, **levy**, **levy order**, **levypayer**, and **responsible levy authority** have the same meanings as in section 7 of the Infrastructure Funding and Financing Act 2020.

75B Application of proceeds of rating sale or lease that involves levy

- (1) The proceeds of a sale or lease under section 70 or 71 that relates to a levy as well as rates must be applied in the following order:
 - (a) the Registrar's fee (unless the fee has already been paid):
 - (b) the judgment, and any interest, costs, and disbursements:
 - (c) any other unsatisfied judgment for rates for the same rating unit, with any interest, costs, and disbursements:
 - (d) any other unsatisfied judgment for a levy for the same rating unit, with any interest, costs, and disbursements:
 - (e) any other rates due at the date of the sale or lease of the same rating unit, whether or not those rates are still recoverable under section 65 (including, in the case of a lease, the rates (if any) that are or become due on the unit from the person on whose behalf the unit was leased while the Registrar received rents from it):
 - (f) any other levy due at the date of the sale or lease of the same rating unit, whether or not that levy is still recoverable under section 65 (including, in the case of a lease, the levy (if any) that is or becomes due on the unit from the person on whose behalf the unit was leased while the Registrar received rents from it):

Local Government (Rating) Act 2002 (2002 No 6)—continued

- (g) any encumbrance on the rating unit:
 - (h) any other unsatisfied judgment for rates on other rating units in the district (if the person against whom the judgment is entered is the ratepayer of other rating units), with any interest, costs, and disbursements:
 - (i) any other unsatisfied judgment for a levy on other rating units in the district (if the person against whom the judgment is entered is the levypayer of other rating units), with any interest, costs, and disbursements:
 - (j) any other rates due at the date of the sale or lease for other rating units owned by that person, whether or not the other rates are outside the period of limitation specified in section 65:
 - (k) any other levy due at the date of the sale or lease for other rating units owned by that person, whether or not the other levy is outside the period of limitation specified in section 65.
- (2) For the purposes of subsection (1)(f), if levies are imposed under more than 1 levy order under the Infrastructure Funding and Financing Act 2020, the proceeds of sale that are applied to a levy must be applied in the order in which those orders were made.

After section 83, insert:

83A Unpaid levy under Infrastructure Funding and Financing Act 2020

- (1) This section applies if the abandoned land is a rating unit for which a levy as well as rates have not been paid for 3 years or more.
- (2) Sections 77 to 83 (other than section 82) apply to the abandoned land—
 - (a) as if any reference in those sections to—
 - (i) the local authority included a reference to the responsible levy authority; and
 - (ii) rates included a reference to a levy; and
 - (iii) a ratepayer included a reference to a levypayer; and
 - (b) with all other necessary modifications.
- (3) Section 83B applies instead of section 82.
- (4) In this section and section 83B, **levy**, **levypayer**, and **responsible levy authority** have the same meanings as in section 7 of the Infrastructure Funding and Financing Act 2020.

83B Application of proceeds of sale or lease

- (1) Sections 75B and 76 apply, with the necessary modifications, to the application of the proceeds of every sale or lease of abandoned land to which section 83A applies.

Local Government (Rating) Act 2002 (2002 No 6)—*continued*

- (2) For the purposes of this section, **expenses** includes all expenses incurred by the responsible levy authority in connection with the sale or lease.
- (3) If the proceeds of the sale or lease are not sufficient to meet the rates, levy, interest, costs, and expenses, the responsible levy authority may write off the deficiency.

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

SPVs (special purpose vehicles) within the meaning of section 7(1) of the Infrastructure Funding and Financing Act 2020, in their role under that Act and under a levy order made under that Act

Property Law Act 2007 (2007 No 91)

In section 185(2)(b), after “rates”, insert “, a levy under the Infrastructure Funding and Financing Act 2020,”.

After section 346(2), insert:

- (3) However, this subpart does not apply to dispositions to which the limit in section 142(3) of the Infrastructure Funding and Financing Act 2020 applies under a levy order made under that Act.

Public Works Act 1981 (1981 No 35)

In section 2, replace the definition of **local work** with:

local work means—

- (a) a work constructed or intended to be constructed by or under the control of a local authority, or for the time being under the control of a local authority; and
- (b) a local SPV work

In section 2, insert in their appropriate alphabetical order:

eligible infrastructure has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020

local SPV work means eligible infrastructure—

- (a) that is constructed or intended to be constructed by or under the control of an SPV, or for the time being under the control of an SPV; and
- (b) for which a local authority is the responsible infrastructure authority

protected Māori land has the same meaning as in section 11 of the Infrastructure Funding and Financing Act 2020

responsible infrastructure authority has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

Public Works Act 1981 (1981 No 35)—*continued*

SPV means an SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure

After section 16(2), insert:

- (3) In addition, a local authority is empowered to acquire under this Act any land required for a local SPV work for which it is the responsible infrastructure authority.

After section 23(8), insert:

- (9) No power in this section may be used to take protected Māori land for the purposes of a local SPV work.

After section 27, insert:

Land required under Infrastructure Funding and Financing Act 2020

27A Transfer of land taken for construction of eligible infrastructure

- (1) This section applies to land acquired under this Part by a local authority—
- (a) using the power conferred by section 16(3); or
 - (b) using the power conferred by section 16(2) in relation to land that is later required for the purpose set out in section 16(3).
- (2) The local authority (that is a responsible infrastructure authority) may transfer the land to the responsible SPV for the purpose of a local SPV work.
- (3) Sections 40 to 42A do not apply to—
- (a) a transfer under subsection (2); or
 - (b) a transfer of the land back to the local authority under section 90 of the Infrastructure Funding and Financing Act 2020.
- (4) If the local authority or the SPV that owns the acquired land no longer requires any of that land for eligible infrastructure, the authority or SPV must dispose of the land in accordance with sections 40 to 42A.

Resource Management Act 1991 (1991 No 69)

Replace the heading to section 166 with “**Definitions**”.

In section 166, definition of **network utility operator**, after paragraph (h), insert:

- (ha) is a responsible SPV that is constructing or proposing to construct eligible infrastructure; or

In section 166, insert in their appropriate alphabetical order:

eligible infrastructure has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020

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

public work includes work that relates to the construction of eligible infrastructure

responsible infrastructure authority has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

responsible SPV has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

SPV means a responsible SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure

In section 166, insert as subsection (2):

- (2) In this Part, work **relates to the construction of eligible infrastructure** if the work—
- (a) involves such construction for which an SPV has financial responsibility; or
 - (b) is work—
 - (i) that is required to facilitate the future construction of eligible infrastructure; and
 - (ii) for which the local authority or the territorial authority giving notice of its requirement for a designation (under section 168 or 168A) has financial responsibility.

After section 167(4), insert:

- (4A) If the applicant is a network utility operator described in paragraph (ha) of the definition of that term in section 166(1), the applicant need not have financial responsibility for the construction work for the purpose of the Minister being satisfied of the matters in subsection (4)(b).

After section 168(2), insert:

- (3) In addition, a local authority may at any time give notice in the prescribed form to a territorial authority of its requirement for a designation for a work that relates to the construction of eligible infrastructure for which the local authority is a responsible infrastructure authority.

After section 168A(1)(a), insert:

- (ab) for work within its district that relates to the construction of eligible infrastructure for which the territorial authority is a responsible infrastructure authority; or

After section 180, insert:

180A When financial responsibility is transferred to responsible SPV

- (1) This section applies if—

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

- (a) a local authority or territorial authority holds a designation for work that relates to the construction of eligible infrastructure within the meaning of paragraph (b) of the definition of relates to the construction of eligible infrastructure in section 166(2); and
 - (b) a responsible SPV has taken over, or proposes to take over, the construction; and
 - (c) a designation continues to be required for the construction; and
 - (d) the responsible SPV is not a requiring authority; and
 - (e) the authority is the responsible infrastructure authority in relation to the construction.
- (2) The designation continues to apply to the construction work.
- (3) The responsible infrastructure authority may, by written notice, delegate to the responsible SPV those functions, duties, and powers in relation to the designation that relate to the construction of eligible infrastructure.
- (4) The responsible SPV must perform those delegated functions and duties and exercise those delegated powers in accordance with any conditions attached to the designation.
- (5) A delegation does not affect the performance or exercise of any function, duty, or power by the responsible infrastructure authority.

After section 186(7), insert:

- (7A) This section does not apply if—
- (a) the network utility operator is a responsible SPV; and
 - (b) the land is protected Māori land.

Utilities Access Act 2010 (2010 No 98)

In section 4, definition of **utility operator**, replace paragraph (d) with:

- (d) in relation to water and wastewater infrastructure,—
- (i) a local authority as defined in section 5 of the Local Government Act 2002; or
 - (ii) a person acting on behalf of a local authority in relation to that infrastructure; or
 - (iii) a responsible SPV that is responsible for the construction of eligible infrastructure under the Infrastructure Funding and Financing Act 2020:

In section 4, insert in their appropriate alphabetical order:

eligible infrastructure has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020

Utilities Access Act 2010 (2010 No 98)—*continued*

SPV means a responsible SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure

Notes

1 *General*

This is a consolidation of the Infrastructure Funding and Financing Act 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Natural and Built Environment Act 2023 (2023 No 46): section 805(1)

Statutes Amendment Act 2022 (2022 No 75): Part 20

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12): sections 54–75

Secondary Legislation Act 2021 (2021 No 7): section 3