

Resource Management Amendment Act 1997

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An Act to amend the Resource Management Act 1991

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Resource Management Amendment Act 1997, and is part of the Resource Management Act 1991 (“the principal Act”).
- (2) Sections 4(4), 6, 7, 17, 19(2), 20, 21(1), 24(4)(a), 30, 31, and 33(1) come into force on a date to be fixed by Order in Council.
- (3) Except as provided in subsection (2), this Act comes into force on the day on which it receives the Royal assent.

Part 1

Interpretation and application

2 Interpretation

- (1) This subsection substituted the definition of the term **district** in s 2(1) of the principal Act.
- (2) This subsection amended the definition of the term **district rule** in s 2(1) of the principal Act.
- (3) This subsection amended the definition of the term **industrial or trade premises** in s 2(1) of the principal Act.
- (4) This subsection substituted the definition of the term **kaitiakitanga** in s 2(1) of the principal Act.
- (5)
- (6) This subsection repealed the definition of the term **Planning Tribunal** in s 2(1) of the principal Act.
- (7) This subsection amended paragraph (b) of the definition of the term **production land** in s 2(1) of the principal Act.
- (8) This subsection amended the definition of the term **regional rule** in s 2(1) of the principal Act.
- (9) This subsection substituted the definition of the term **dumping** in s 2(1) of the principal Act.
- (10) Section 2(14) of the Resource Management Amendment Act 1993 is consequentially repealed.

Subsection (5) was repealed, as from 1 August 2003, by section 96 Resource Management Amendment Act 2003 (2003 No 23). See sections 109 to 113 of that Act as to the transitional and savings provisions.

Part 2

Purpose and principles

3 Other matters

This section inserted s 7(aa) of the principal Act.

Part 3

Duties and restrictions under this Act

4 Restrictions on use of coastal marine area

- (1) This subsection substituted s 12(2)(a) of the principal Act.
- (2) This subsection amended s 12(4) of the principal Act.

- (3) This subsection substituted s 12(4)(a) of the principal Act.
- (4) This section amended s 12(6) of the principal Act.
- (5) Section 10(4) of the Resource Management Amendment Act 1993 is consequentially repealed.

5 Discharge of contaminants into environment
This section amended s 15(2) of the principal Act.

6 Discharge of harmful substances from ships or offshore installations
This section substituted s s 15B of the principal Act.

7 Duty to avoid unreasonable noise
This section amended s 16(2) of the principal Act.

8 Certain existing lawful activities allowed
[Repealed]

Section 8 was repealed, as from 1 August 2003, by section 96 Resource Management Amendment Act 2003 (2003 No 23). See sections 109 to 113 of that Act as to the transitional and savings provisions.

Part 4

Functions, powers, and duties of central and local government

- 9 Authorisation and responsibility of enforcement officers**
- (1) This subsection amended s 38(1)(b) of the principal Act.
 - (2) This subsection substituted s 38(2)(b) of the principal Act.

10 Reports to local authorities
This section amended s 42A(3) of the principal Act.

Part 5

Standards, policy statements, and plans

- 11 Matters to be considered by regional council (policy statements)**
This section inserted s 61(3) of the principal Act.

12 Imposition of coastal occupation charges

This section inserted s 64A of the principal Act.

13 Matters to be considered by regional council (plans)

This section inserted s 66(3) of the principal Act.

14 Regional rules

This section repealed s 68(6) of the principal Act.

15 Matters to be considered by territorial authority

(1) This subsection substituted s 74(2)(a) of the principal Act.

(2) This subsection inserted s 74(3) of the principal Act.

16 Contents of district plan

[Repealed]

Section 16 was repealed, as from 1 August 2003, by section 96 Resource Management Amendment Act 2003 (2003 No 23). See sections 109 to 113 of that Act as to the transitional and savings provisions.

Part 6 Resource consents

17 Types of resource consents

This section amended s 87(c) of the principal Act.

18 Description of type of activity to remain the same

This section inserted s 88A of the principal Act.

19 Further information may be required

[Repealed]

Section 19 was repealed, as from 1 August 2003, by section 96 Resource Management Amendment Act 2003 (2003 No 23). See sections 109 to 113 of that Act as to the transitional and savings provisions.

20 Applications not requiring notification

[Repealed]

Section 20 was repealed, as from 1 August 2003, by section 96 Resource Management Amendment Act 2003 (2003 No 23). See sections 109 to 113 of that Act as to the transitional and savings provisions.

21 Matters to be considered

- (1) This section amended s 104(3) of the principal Act.
- (2) This subsection amended s 104(5) of the principal Act.
- (3) This subsection substituted s 104(8) of the principal Act.

22 Decisions on applications

- (1) This subsection amended s 105(1)(b) of the principal Act.
- (2) This subsection repealed s 105(2)(b) of the principal Act.
- (3) This subsection inserted s 105(2A) of the principal Act.
- (4) This subsection inserted s 105(3A) of the principal Act.

23 Restriction on grant of certain discharge permits

- (1) This subsection substituted s 107(2) of the principal Act.
- (2) Section 57(2) and (3) of the Resource Management Amendment Act 1993 are consequentially repealed.

24 Conditions of resource consents

- (1) This subsection substituted s 108(1) and (2) of the principal Act.
- (2) This subsection amended s 108(6) of the principal Act.
- (3) This subsection amended s 108(7) of the principal Act.
- (4) Section 108(8) of the principal Act is amended—
 - (a) By inserting, after the words “of contaminants)”, the words “or 15B”:
 - (b) This paragraph amended s 108(8) of the principal Act.
- (5) This subsection substituted s 108(9), and inserted s 108(10) of the principal Act.
- (6) The following enactments are consequentially repealed:
 - (a) Section 58(1) to (5) and (7) of the Resource Management Amendment Act 1993:
 - (b) So much of Schedule 4 of the Building Act 1991 as relates to section 108(1)(b) of the principal Act.

25 Special provisions in respect of bonds or covenants

This section amended s 109(1) of the principal Act.

- 26 Refund of money and return of land where activity does not proceed**
This section amended s 110(1) of the principal Act.
- 27 Use of financial contributions**
This section amended s 111 of the principal Act.
- 28 Obligation to pay rent and royalties deemed condition of consent**
This section repealed s 112(1)(a) of the principal Act.
- 29 Change or cancellation of consent condition on application by consent holder**
This section substituted s 127(3)(b) of the principal Act.
- 30 Circumstances where consent conditions can be reviewed**
This section amended s 128(1)(a) of the principal Act.
- 31 Matters to be considered in review**
This section amended s 131 of the principal Act.
- 32 Consent authorities to grant certificates of compliance**
This section amended s 139(3) of the principal Act.

Part 7

Coastal tendering

- 33 Application of Order in Council**
- (1) This subsection amended s 153(c) of the principal Act.
 - (2) This subsection substituted s 153(d) of the principal Act.
- 34 Rental payments to be reduced by amount of any coastal occupation charges**
This section inserted s 158(1A) of the principal Act.

Part 8

Designations and heritage orders

35 Notice of requirement by territorial authority

- (1) This subsection amended s 168A(2) of the principal Act.
- (2) This subsection amended s 168A(2) of the principal Act.
- (3) This subsection amended s 168A(4) of the principal Act.

36 Recommendation by territorial authority

- (1) This subsection substituted s 171(1)(d) of the principal Act.
- (2) This subsection substituted s 171(2)(a) of the principal Act.
- (3) Section 87(b) of the Resource Management Amendment Act 1993 is consequentially repealed.

37 Effect of designation

- (1) This subsection amended s 176(1) of the principal Act.
- (2) This subsection amended s 176(2) of the principal Act.

38 Outline plan

This section inserted s 176A of the principal Act.

Part 9

Subdivision and reclamations

39 Meaning of subdivision of land

This section inserted s 218(4) of the principal Act.

40 Completion certificates

This section amended s 222(1) of the principal Act.

41 Approval of survey plan by territorial authority

This section amended s 223(3) of the principal Act.

42 Restrictions upon deposit of survey plan

- (1) This subsection amended s 224(c)(iii) of the principal Act.
- (2) This subsection amended s 224(f) of the principal Act.

- 43 Cancellation of prior approvals**
This section amended s 227(1) of the principal Act.
- 44 Creation of esplanade strips by agreement**
This section amended s 235(1) of the principal Act.
- 45 Where land previously set aside or reserved**
This section amended s 236 of the principal Act.
- 46 Covenant against transfer of allotments**
(1) This subsection amended s 240(3) of the principal Act.
(2) This subsection substituted s 240(5)(b) of the principal Act.
- 47 Amalgamation of allotments**
This section substituted s 241(4)(b) of the principal Act.
- 48 Survey plan approved subject to grant or reservation of easements**
This section substituted s 243(f)(ii) of the principal Act.
- 49 Consent authority approval of a plan of survey of a reclamation**
This section amended s 245 of the principal Act.

Part 10
Declarations, enforcement, and ancillary powers

- 50 Decision on application**
This section amended s 313 of the principal Act.
- 51 Form and content of abatement notice**
(1) This subsection substituted s 324(d) of the principal Act.
(2) This subsection amended s 324(f) of the principal Act.
- 52 Appeals**
(1) This subsection amended s 325(2)(c) of the principal Act.

- (2) This subsection substituted s 325(3) and inserted s 325(3A) to (3H) of the principal Act.

53 Restrictions on certain applications for enforcement orders and abatement notices

This section substituted s 325B(3) of the principal Act.

54 Meaning of excessive noise

This section substituted s 326(1)(c) of the principal Act.

55 Compliance with excessive noise direction

This section substituted s 328(4) and (5) of the principal Act.

56 Penalties

This section amended s 339(1) of the principal Act.

57 Liability of principal for acts of agents

- (1) This subsection amended s 340(1)(a) of the principal Act.
(2) This subsection amended s 340(2)(b)(i) of the principal Act.

Part 11

Miscellaneous provisions

58 New sections (relating to unlawful reclamations) inserted

This section inserted ss 355A and 355B of the principal Act.

59 Objections to certain decisions and requirements of consent authorities

This section inserted s 357(4A) of the principal Act.

60 Regulations

- (1) This subsection amended s 360(1) of the principal Act.
(2) This subsection inserted s 360(1)(hf) to (hh) of the principal Act.
(3) This subsection inserted s 360(2C) and (2D) of the principal Act.

Part 12

Transitional provisions

- 61 Provisions deemed to be regional rules**
This section amended s 369(4) of the principal Act.
- 62 New sections inserted**
This section inserted ss 401A and 401B of the principal Act.
- 63 Transitional provisions for esplanade reserves where land subdivided or road stopped**
This section amended s 405A(1) of the principal Act.
- 64 Subdivision consent conditions**
This section amended s 407(1) of the principal Act.
- 65 Financial contributions for development**
This section amended s 409(1) of the principal Act.
- 66 Restriction on imposition of conditions as to financial contributions**
This section amended s 411(1) of the principal Act.
- 67 Certain existing permitted uses may continue**
(1) This subsection substituted s 418(1B) of the principal Act.
(2)
(3)
Subsections (2) and (3) were repealed, as from 1 January 2005, by section 30(2) Resource Management Amendment Act (No 2) 2004 (2004 No 103).
- 68 Repealing provision relating to outline plans**
(1) This subsection amended s 420(3) of the principal Act.
(2) This subsection repealed s 420(4) of the principal Act.
(3) Section 201(2) of the Resource Management Amendment Act 1993 is consequentially repealed.
Subsection (3) was amended, as from 1 August 2003, by section 104 Resource Management Amendment Act 2003 (2003 No 23) by substituting the expression “section 201(2)” for the expression “section 210(2)”. *See* sections 109 to 113 of that Act as to the transitional and savings provisions.

Part 13

Other provisions

- 69 Consolidation of Schedule 1 Analysis**
This section substituted the Analysis of Schedule 1 of the principal Act.
- 70 Requirements to be inserted prior to notification of proposed plans**
This section amended cl 4(7) of Schedule 1 of the principal Act.
- 71 Reference of decision on submissions and requirements to the Environment Court**
This section substituted cl 14(5), and inserted cl 14(5)(ba) of Schedule 1 of the principal Act.
- 72 Local authority to consider request**
This section substituted cl 25(2) of Schedule 1 of the principal Act.
- 73 Notification timeframes**
This section amended cl 26(b)(i) of Schedule 1 of the principal Act.
- 74 Matters related to regions**
This section substituted cl 5 of Part 1 of Schedule 2 of the principal Act.
- 75 Matters related to districts**
This section substituted cl 3 of Part 2 of Schedule 2 of the principal Act.
- 76 Part 1 of Schedule 8 amended**
This section amended Part 1 of Schedule 8.
Subsection (1) was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). See sections 273 to 314 of that Act as to the savings and transitional provisions.

77 Regulations revoked

The Resource Management (Transitional Provisions) Regulations Extension Regulations 1992 (SR 1992/358) are revoked.

78 Transitional provisions

- (1) Where, on the commencement of this section,—
 - (a) An application in relation to a resource consent (including a change or a review of conditions of an existing consent); or
 - (b) A notice of requirement for a designation or heritage order; or
 - (c) An application to become a requiring authority or heritage protection authority; or
 - (d) A proposed policy statement, plan, change, or variation; or
 - (e) An application for a water conservation order—
has reached the stage of a hearing having commenced or a decision having been made, the principal Act continues to apply to those matters as if this Act had not been passed.
- (2) Where, before the commencement of this section, a hearing has been completed in relation to a matter specified in paragraphs (a) to (e) of subsection (1) and where, whether before or after the commencement of this Act, a decision or recommendation is made in relation to that matter, nothing in this Act affects the rights of objection conferred by section 357 of the principal Act and the rights of appeal conferred by the principal Act in relation to that matter, and any such objection or appeal may be lodged, considered, and completed as if this Act had not been enacted.
- (3) Where the hearing of an appeal or objection has, before the commencement of this section, been commenced in relation to a matter specified in paragraphs (a) to (e) of subsection (1) of this section, the proceedings in relation to that appeal or objection are continued as if this Act had not been enacted.
- (4) Where, before the commencement of this section, a decision or recommendation has been made in relation to any matter specified in paragraphs (a) to (e) of subsection (1) and the time for lodging an appeal or making an objection in relation to that decision or recommendation has not expired on the com-

mencement of this section, nothing in this Act affects the right of any person to lodge an appeal or make an objection within the time that would have been allowed under the principal Act as if this Act had not been enacted.

- (5) Where an appeal has been lodged or an objection has been made before the commencement of this section, but the hearing of that appeal or consideration of that objection has not commenced, or where an appeal is lodged or an objection is made within the time referred to in subsection (4), the appeal or objection must be considered and completed under the principal Act as if this Act had not been enacted.
- (6) Where, before the commencement of this section, an application for a subdivision consent has been made or a subdivision consent has been granted, all proceedings in relation to that subdivision, including the approval and deposit of any survey plan, must be considered and completed under the principal Act as if this Act had not been enacted.
- (7) Where, before the commencement of this section, any declaration or enforcement or abatement action under Part 12 of the principal Act has commenced, every such action must be continued and completed (including any appeals) under the principal Act as if this Act had not been enacted.
- (8) Nothing in this section limits the ability of any person to withdraw that person's application, notice, or proposal under the principal Act (as amended by this Act).
- (9) Nothing in this section limits the ability of any person to withdraw any objection or appeal
- (10) For the purposes of this section, the term **appeal** includes any reference to, or inquiry undertaken by, the Environment Court.

79 Financial transitional provisions

Nothing in sections 108(9) or 108(10) of the principal Act or in clause 5 of Part 1 of Schedule 2 of the principal Act or in clause 3 of Part 2 of Schedule 2 of the principal Act (as substituted by this Act) invalidates any provision included before the commencement of this Act in a plan or proposed plan which provided for the imposition of a financial contribution of works or services or both.