



**THE RESOURCE MANAGEMENT (TRANSITIONAL PROVISIONS)  
REGULATIONS (NO. 2) 1991**

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CATHERINE A. TIZARD, Governor-General

**ORDER IN COUNCIL**

At Wellington this 25th day of November 1991

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Resource Management Act 1991, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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**REGULATIONS**

**1. Title and commencement**—(1) These regulations may be cited as the Resource Management (Transitional Provisions) Regulations (No. 2) 1991.

(2) These regulations shall come into force on the 7th day after the date of their notification in the *Gazette*.

**2. Period during which regulations apply**—These regulations shall apply during the period commencing on the date of commencement of these regulations and ending with the 31st day of December 1992.

**3. Transitional provisions for subdivisions in district schemes**—Section 405 of the Resource Management Act 1991 shall be read as if subsection (1) was replaced by the following subsections:

“(1) For the purpose of subsections (1A) and (1B), the term ‘district plan’ means a district plan or a proposed plan constituted under section 373; and includes any proposed change, review, or variation to a district scheme that has been publicly notified under the Town and Country Planning Act 1977 before the commencement of this Part of the Act.

“(1A) Notwithstanding anything in sections 373 (3) and 374 (3), in respect of any district plan—

“(a) Every subdivision of land that is contrary to the provisions of that district plan shall be deemed to be a non-complying activity in respect of that plan:

“(b) Every subdivision of land which is subject to a discretion contained in the provisions of that district plan relating to the approval or refusal of a subdivision of land is deemed to be a discretionary activity in respect of that plan:

“(c) Every other subdivision of land shall be deemed to be a controlled activity in respect of that district plan.

“(1B) Notwithstanding the provisions of subsection (1A) or any provision in a district plan, a subdivision of land to be effected by a grant of a cross lease or a company lease, or by the deposit of a unit plan, is deemed—

“(a) To be a controlled activity in respect of a district plan—

“(i) If the building or part of a building in respect of which the cross lease or company lease is to be granted; or

“(ii) If the units on the unit plan to be deposited,—  
is or are intended to be used solely or principally for residential or commercial or industrial purposes, or any 2 or more such purposes:

“(b) To be a non-complying activity in respect of a district plan in every other case.”

**4. Subdivision consent conditions**—Section 407 of the Resource Management Act 1991 shall be read as if the following subsections were added:

“(3) Where an application is made for a subdivision consent for any subdivision of land which is a controlled activity, section 108 (3) shall not apply to any condition to be included in that consent and, for that purpose, the provisions of section 108 (1), (2), (4), and (5) shall be read as if those subsections did not contain a reference to section 108 (3).

“(4) This section extends to applications for subdivision consent in respect of every kind of subdivision of land within the meaning of section 218 (1), including, but not by way of limitation, any subdivision to be effected by the grant of a company lease or cross lease or by the deposit of a unit plan.”

**5. Certain permitted uses may continue**—(1) Section 418 of the Resource Management Act 1991 shall be read as if subsection (1) was replaced by the following subsections:

“(1) For the purposes of this Act, paragraph (c) of section 15 (1) shall not apply in respect of—

“(a) Any crematorium established in accordance with the provisions of the Burial and Cremation Act 1964 or the corresponding provision of any former enactment; or

“(b) Any process specified or described in Part C of the Second Schedule to the Clean Air Act 1972; or

“(c) Any use of premises for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or for composting organic materials; or

“(d) Any factory farm—  
within a region, which was lawfully being carried out prior to the 1st day of October 1991 and was not subject to any licence or other authorisation under the Clean Air Act 1972 and any regulations under that Act repealed by this Act relating to the emission of air pollutants (within the meaning of that Act), until the third anniversary of the date of commencement of this Act, unless a regional plan sooner provides otherwise.

“(1A) For the purposes of this Act, a rule is deemed to be included in each regional plan under section 368 that paragraph (c) of section 15 (1) shall not apply in respect of any of the activities relating to the discharge of contaminants into the environment specified in subsection (1) (a), (b), and (d) that would lawfully have been carried out if they had commenced prior to the 1st day of October 1991 and would not have required any licence or other authorisation under the Clean Air Act 1972 and any regulations under that Act repealed by this Act.

“(1B) Every rule deemed to have been included in a regional plan pursuant to subsection (1A) shall apply until the third anniversary of the date of commencement of this Act unless a regional plan sooner provides otherwise.

“(1C) For the purpose of this Act, paragraph (d) of section 15 (1) shall not apply in respect of any activity discharging contaminants onto or into land within a region, which was lawfully being carried out prior to the 1st day of October 1991 and which did not require any licence or other authorisation to discharge contaminants onto or into land under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, until the third anniversary of the date of commencement of this Act, unless a regional plan sooner provides otherwise.

“(1D) For the purpose of this Act paragraph (d) of section 15 (1) shall not apply in respect of any factory farm commencing on or after the 1st day of October 1991 until the third anniversary of the date of commencement of this Act, unless a regional plan for the region sooner provides otherwise.”

(2) The said section 418 shall be read as if subsection (3) was replaced by the following subsections:

“(3) For the purpose of this Act, section 13 (1) shall not apply in respect of any activity lawfully being carried out in relation to the bed of any river or lake prior to the 1st day of October 1991 which did not require any licence or other authorisation relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, until a regional plan provides otherwise.

“(3A) For the purposes of this Act, section 13 (1) shall not apply in respect of any activity lawfully being carried out in relation to the bed of any river or lake while any licence or other authorisation, granted pursuant to an application made prior to the 1st day of October 1991, relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act remains in force, until a regional plan provides otherwise.”

(3) The said section 418 shall be read as if the following subsection was added:

“(8) For the purposes of this Act, section 14 (1) (a) shall not apply to the activities of ships, boats, and vessels in respect of the operational needs of those craft where, prior to the 1st day of October 1991, no licence or authorisation was required for those activities under any Act repealed by this Act, until a regional plan provides otherwise.”

**6. Expiry of these regulations**—These regulations shall expire with the close of the 31st day of December 1992, and on the 1st day of January 1993 shall be deemed to have been revoked.

DIANE WILDERSPIN,  
Acting for Clerk of the Executive Council.

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EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on the day after the date of their notification in the *Gazette* and apply from that date until 31 December 1992, contain transitional provisions—

- (a) To clarify how applications for the subdivision of land are to be regarded in respect of district plans under the Resource Management Act 1991 in the transition period:
- (b) To suspend the application of section 108 (3) to any subdivision consent that is deemed a controlled activity in the transition period:
- (c) To make it clear that the provisions of section 407 of the Resource Management Act 1991 apply to all subdivisions, including those effected by the grant of a company lease or cross lease or the deposit of a unit plan:
- (d) To clarify the limitations of the exemptions granted to certain existing uses from the provisions in Part III of the Resource Management Act 1991 for various transition periods.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 28 November 1991.

These regulations are administered in the Ministry for the Environment.